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October 30, 1991

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RECORDATION NO \_\_\_\_\_ FILED 1425

OCT 31 1991 - 9 52 AM

INTERSTATE COMMERCE COMMISSION

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INTERSTATE COMMERCE COMMISSION

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Secretary  
Interstate Commerce Commission  
Washington, DC 20423

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RECORDATION NO \_\_\_\_\_ FILED 1425

OCT 31 1991 - 11 52 AM

INTERSTATE COMMERCE COMMISSION

OCT 31 11 52 AM '91

Dear Secretary:

Enclosed are counterparts of the documents described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code:

Lease Agreement dated as of October 15, 1991, a primary document.

Indenture, Mortgage and Security Agreement dated as of October 15, 1991, a primary document.

Lease and Indenture Supplement dated as of October 31, 1991, a secondary document.

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

Lessee: CSX Transportation, Inc.  
100 North Charles Street  
Baltimore, Maryland 21201

Owner Trustee and Lessor: First Security Bank of Utah, National Association  
79 South Main Street  
Salt Lake City, Utah 84130

## Indenture Trustee:

Mercantile-Safe Deposit and Trust Company  
Two Hopkins Plaza  
Baltimore, Maryland 21201

The equipment covered by the documents consists of 3,400 100-ton bathtub gondola cars bearing the road numbers of CSX Transportation, Inc. listed on the schedule attached hereto. ✓

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

Lease Agreement dated as of October 15, 1991, between First Security Bank of Utah, National Association, as owner trustee, as lessor, and CSX Transportation, Inc., as lessee

Indenture, Mortgage and Security Agreement dated as of October 15, 1991, among First Security Bank of Utah, National Association, not in its individual capacity but as owner trustee, Mercantile-Safe Deposit and Trust Company, as indenture trustee, and CSX Transportation, Inc., as lessee

Lease and Indenture Supplement No. 1 dated as of October 31, 1991, among First Security Bank of Utah, National Association, not in its individual capacity but solely as owner trustee, CSX Transportation, Inc., as lessee, and Mercantile-Safe Deposit and Trust Company, not in its individual capacity but solely as indenture trustee

A fee of \$15.00 is enclosed. Please return any extra copies not needed by the Commission for recordation to James E. Magee of this firm at 1111 19th Street, N.W., Washington, D.C. 20036.

Very truly yours,



Jay S. Rand

Enclosures

17576 *As*  
RECORDATION NO. \_\_\_\_\_ FILED

OCT 31 1991 -11 02 AM

INTERSTATE COMMERCE COMMISSION

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INDENTURE, MORTGAGE AND SECURITY AGREEMENT

Dated as of October 15, 1991

among

FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION  
not in its individual capacity  
but solely as Owner Trustee,

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,  
not in its individual capacity  
but solely as Indenture Trustee  
(except as expressly set forth herein)

and

CSX TRANSPORTATION, INC.

---

3,400 100-TON GONDOLA CARS

---

FILED WITH THE INTERSTATE COMMERCE COMMISSION  
PURSUANT TO 49 U.S.C. § 11303 on OCTOBER \_\_, 1991  
AT \_\_\_\_ .M., RECORDATION NUMBER \_\_\_\_\_,  
AND DEPOSITED WITH THE OFFICE OF THE REGISTRAR  
GENERAL OF CANADA PURSUANT TO § 90 OF THE RAILWAY  
ACT OF CANADA ON OCTOBER \_\_, 1991 AT \_\_\_\_ .M.,  
RECORDATION NUMBER \_\_\_\_\_.

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Trust Indenture Act Reconciliation

<u>Trust Indenture Act of 1939 Section</u>	<u>Indenture, Mortgage and Security Agreement Section</u>
310(a) (1) . . . . .	7.10
(a) (2) . . . . .	7.10
312(a) . . . . .	3.01
(b) . . . . .	3.02(a)
(c) . . . . .	3.02(b)
313(a) . . . . .	3.02(b), 7.18
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314(a) . . . . .	9.10
(b) . . . . .	9.11
(c) (1) . . . . .	7.19
(c) (2) . . . . .	7.19
(d) (1) . . . . .	7.15, 10.10
(d) (2) . . . . .	10.10
(d) (3) . . . . .	7.15
(e) . . . . .	1.13
315(b) . . . . .	7.03
(e) . . . . .	6.15
316(a) (last sentence) . . . . .	Schedule X ("Outstanding")
(a) (1) (A) . . . . .	6.05
(a) (1) (B) . . . . .	6.12
(b) . . . . .	6.10
(c) . . . . .	6.05
317(a) (1) . . . . .	6.04
(a) (2) . . . . .	6.04
(b) . . . . .	5.02
318(a) . . . . .	1.10

INDENTURE, MORTGAGE AND SECURITY AGREEMENT dated as of October 15, 1991, among FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, a national banking association, not in its individual capacity but solely as owner trustee (the "Owner Trustee") under the Trust Agreement (as such term and certain other capitalized terms used herein are defined in or by reference in Article I), MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, a Maryland trust company, not in its individual capacity but solely as indenture trustee, except as expressly set forth herein (the "Indenture Trustee") and CSX TRANSPORTATION, INC., a Virginia corporation (the "Lessee").

W I T N E S S E T H :

WHEREAS, the Owner Trustee desires by this Indenture, among other things, (i) to provide for the issuance by the Owner Trustee of the Certificates and (ii) to provide for the assignment, mortgage and pledge by the Owner Trustee to the Indenture Trustee, as part of the Indenture Estate hereunder, among other things, of all of the Owner Trustee's right, title and interest in and to the Units, and, except as hereinafter expressly provided as to Excepted Payments and Excepted Rights, all of the Owner Trustee's right, title and interest in, to and under the Indenture Estate Documents (as defined hereafter) and all payments and other amounts received hereunder or thereunder in accordance with the terms hereof or thereof, as security for the Owner Trustee's obligations to the Indenture Trustee and for the ratable benefit and security of the Holders;

WHEREAS, all things have been done to make the Certificates, when executed by Owner Trustee and authenticated and delivered by the Indenture Trustee hereunder, the valid, binding and enforceable obligations of the Owner Trustee; and

WHEREAS, all acts and things necessary to make this Indenture a valid and legally binding obligation of the Owner Trustee, in accordance with its terms, have been done and performed;

GRANTING CLAUSE

NOW, THEREFORE, THIS INDENTURE WITNESSETH that, in consideration of the premises and other good and valuable consideration the receipt of which is hereby acknowledged and in order to secure the due and punctual payment of the principal of, and Premium, if any, and interest on, all Certificates at any time issued and Outstanding under this Indenture and of all other amounts payable to or for the benefit of the Holders of the Certificates and the Indenture Trustee hereunder, under the Participation Agreement and under the other Indenture Estate Documents and compliance with all the terms of this Indenture and the Certificates, and to secure the performance and observance by

## Indenture

the Owner Participant and the Owner Trustee of their respective agreements and the conditions applicable to them contained herein or in any other Operative Document (collectively, the "Obligations"), the Owner Trustee hereby grants, bargains, sells, assigns, transfers, conveys, mortgages and pledges unto the Indenture Trustee and its successors and assigns, and grants to the Indenture Trustee, for the benefit and security of the Holders from time to time of the Certificates Outstanding, a first priority security interest in and mortgage Lien on all of the Owner Trustee's estate, right, title and interest in, to and under the following described property, rights, interests and privileges whether now owned or hereafter acquired and wherever located (all such property, including all property hereafter specifically subjected to the Lien of this Indenture by any instrument supplemental hereto, but excluding Excepted Property and Excepted Rights, being herein called the "Indenture Estate"), to wit:

### FIRST

#### Units

All right, title and interest of the Owner Trustee in and to the Units and including, without limitation, all additions, alterations or modifications thereto or replacements of any part thereof (including, without limitation, all Replacement Units), whenever made or performed or acquired and all other items of tangible personal property of any kind acquired by the Owner Trustee in connection with the acquisition of the Units, in each case whether acquired at the time of acquisition of the Units or thereafter acquired pursuant to the Lease or otherwise.

### SECOND

#### Lease; Lease and Indenture Supplement; Other Documents

All right, title and interest of the Owner Trustee in, to and under the Lease, the Lease and Indenture Supplement and the Bill of Sale (collectively, the "Indenture Estate Documents"), including, without limitation, all amounts of Interim Rent, Basic Rent, Supplemental Rent, insurance proceeds, condemnation, requisition and other awards and indemnity and other payments of any kind to which the Owner Trustee is or may be entitled under the Lease or any other Indenture Estate Document (including, without limitation, payments with respect to

## Indenture

Stipulated Loss Value, Termination Value and Premium, if any, on the Certificates), except to the extent any of the foregoing is included in Excepted Property and all rights of the Owner Trustee to exercise any election or option or to make any decision or determination or to give or receive any notice, consent, waiver or approval or to take any other action under or in respect of any Indenture Estate Document or to accept any redelivery of all or a portion of the Units as well as all the rights, powers and remedies on the part of the Owner Trustee, whether arising under any Indenture Estate Document or by statute or at law or in equity, or otherwise, arising out of any Event of Default, except to the extent any of the foregoing is included in Excepted Rights.

It is expressly agreed that, anything herein contained to the contrary notwithstanding, the Owner Trustee shall remain liable under each of the Indenture Estate Documents to perform all the obligations assumed by it under each thereof, all in accordance with and pursuant to the terms and provisions of each thereof, and the Indenture Trustee and the Holders shall have no obligation or liability under any of the Indenture Estate Documents by reason of or arising out of this Indenture, nor shall the Indenture Trustee or the Holders be required or obligated in any manner to perform or fulfill obligations of the Owner Trustee under or pursuant to any of the Indenture Estate Documents or, except as herein expressly provided, to make any payment, to make any inquiry as to the nature or sufficiency of any payment received by it, to present or file any claim, or to take any action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

### THIRD

#### Other Property

All other property and assets of whatsoever kind, nature or description, real, personal and mixed, and any interest therein, which may hereafter from time to time be acquired, received or held by the Owner Trustee pursuant to the Lease, the Lease and Indenture Supplement or any other Indenture Estate Document wherever located and whether or not subject to the Lien of this Indenture, or which may be granted, mortgaged, assigned, transferred and pledged to the Indenture Trustee hereunder by any Person and accepted by the Indenture Trustee.

Indenture

Indenture

FOURTH

Rent and Proceeds

All right, title and interest, present and future, of the Owner Trustee in and to all proceeds, rent, issues, profits, products, revenues and other income, and in and to all proceeds and payments, from and on account of the property, rights and privileges subjected or required to be subjected to the Lien of this Indenture.

FIFTH

Moneys; Documents

All right to restitution from any party to the Lease, the Lease and Indenture Supplement or any other Indenture Estate Document in respect of any determination of invalidity of any thereof; and all moneys and securities now or hereafter paid to or deposited with the Indenture Trustee by or for the account of the Owner Trustee pursuant to any term of this Indenture and held or required to be held by the Indenture Trustee hereunder, including, but not limited to, the proceeds from the sale of the Certificates and any Permitted Investment held by the Indenture Trustee pursuant to Section 10.10 and all investment income thereon; and all instruments, documents of title, books and records of the Owner Trustee concerning the Indenture Estate (other than income, tax and other similar financial records relating to the Commitment of the Owner Participant).

Concurrently with the delivery hereof, the Owner Trustee is delivering to the Indenture Trustee the original executed counterpart of the Lease and of the Lease and Indenture Supplement and executed copies of the Bill of Sale.

EXCEPTED PROPERTY

There is, however, expressly excepted and excluded from the Indenture Estate all of the Owner Trustee's estate, right, title and interest in, to and under the following described property ("Excepted Property"):

- A. all amounts of Supplemental Rent, indemnity and other payments including, without limitation, any insurance proceeds payable under public liability policies or any

Indenture

casualty insurance proceeds payable under policies maintained by the Owner Participant (whether directly or through the Owner Trustee) for its own account which in each case are payable by the Lessee or others to the Owner Participant, or which are payable by the Lessee or others to First Security or the Owner Trustee and which by the terms of any other Operative Document are for the sole benefit of the Owner Participant, First Security or the Owner Trustee;

B. all payments pursuant to Section 13 of the Participation Agreement payable by the Lessee to the Owner Participant, or to First Security or the Owner Trustee for the sole benefit of the Owner Participant, First Security, or the Owner Trustee;

C. that portion of Stipulated Loss Value in respect of each Unit attributable to recapture of accelerated cost recovery deductions and the income taxes attributable to the receipt by the Owner Participant of such Stipulated Loss Value, provided, however, that the amount as of any particular date of Stipulated Loss Value in respect of each Unit less such recapture and income taxes shall be, with respect to such Unit, at least sufficient to pay in full the aggregate unpaid principal amount of and all accrued interest on such principal amount of the Certificates to be redeemed pursuant to Section 4.01 on the relevant Redemption Date; and

D. any interest as may be paid pursuant to any Indenture Estate Document in respect of amounts described in clauses A and B above.

HABENDUM CLAUSE

TO HAVE AND TO HOLD the Indenture Estate unto the Indenture Trustee and its successors and assigns in pledge and trust for the benefit and security of the Holders from time to time of all the Certificates issued and Outstanding hereunder and for the uses and purposes and subject to the terms and provisions set forth in this Indenture.

IN TRUST NEVERTHELESS, upon the terms and trusts set forth, for the equal and proportionate benefit and security of all Holders of the Certificates issued and to be issued hereunder, without preference, distinction or priority as to Lien or otherwise of any Certificate over any other Certificate, by

## Indenture

reason of priority in time of issue, sale or negotiation thereof, or by reason of the purpose of issue, or otherwise howsoever, except as herein otherwise expressly provided.

The Owner Trustee does hereby constitute and appoint the Indenture Trustee the true and lawful attorney of the Owner Trustee, which appointment is coupled with an interest, irrevocably, with full power (in the name of the Owner Trustee or otherwise) to ask, require, demand, receive, settle, compromise, compound and give acquittance for any and all moneys and claims for moneys due and to become due under or arising out of any of the Indenture Estate Documents or the Indenture Estate, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Indenture Trustee may deem to be necessary or advisable in the premises.

The Owner Trustee has directed the Lessee to make all payments of Rent (other than Excepted Property) payable to the Owner Trustee by the Lessee directly to the Indenture Trustee at such address as the Indenture Trustee shall specify, for application as provided in Article X of this Indenture. The Owner Trustee agrees that promptly upon actual receipt thereof, it will transfer to the Indenture Trustee any and all moneys from time to time received by it constituting part of the Indenture Estate, except that the Owner Trustee shall accept for distribution pursuant to the Trust Agreement any amounts distributed to it by the Indenture Trustee as expressly provided in this Indenture (whereupon such amount shall no longer be part of the Indenture Estate) and any Excepted Property.

The Owner Trustee agrees that at any time and from time to time, upon the written request of the Indenture Trustee, it will promptly and duly execute and deliver any and all such further instruments and documents and take such further action as the Indenture Trustee may reasonably deem desirable in obtaining the full benefits of the foregoing clauses FIRST through FIFTH and of the rights and powers herein granted.

The Owner Trustee does hereby warrant and represent that, except as otherwise contemplated by this Indenture, it has not assigned, pledged, or granted a security interest in, and hereby covenants that it will not assign, pledge, or grant a security interest in, so long as this Indenture shall remain in effect, any of its right, title or interest hereby assigned or pledged to anyone other than the Indenture Trustee, and that it

## Indenture

will not, except as provided in this Indenture or as contemplated by the definition of Excepted Rights, enter into any agreement amending or supplementing, execute any waiver or modification of, or consent under the Lease, or any other Operative Document, accept any payment (other than a payment constituting Excepted Property) from the Lessee, or settle or compromise any claim (other than a claim with respect to Excepted Property) against the Lessee arising under the Lease or any other Operative Document to the extent included in the Indenture Estate or submit or consent to the submission of any dispute, difference or other matter arising under or in respect of the Lease or any other Indenture Estate Document, other than in connection with any Appraisal Procedure, to arbitration thereunder.

The Owner Trustee does hereby ratify and confirm the Lease and does hereby agree that it will not, except as provided in this Indenture, take or omit to take any action, the taking or omission of which might result in an alteration or impairment of the Lease or this Indenture.

IT IS HEREBY COVENANTED AND AGREED that the terms and conditions upon which the Certificates are issued, authenticated, delivered and accepted by all Persons who shall from time to time be or become the Holders thereof, and the terms and conditions upon which the property herein pledged is to be held and disposed of, which said terms and conditions the Indenture Trustee hereby accepts and agrees to discharge, are as follows:

### ARTICLE I

#### Definitions and Other Provisions of General Application

SECTION 1.01. Definitions. The following terms shall have the following meanings for all purposes of this Indenture:

(a) unless otherwise expressly provided, all references herein to Sections or other subdivisions refer to the corresponding Sections and other subdivisions of this Indenture;

(b) the terms "hereof," "herein," "hereby," "hereto," "hereunder," "hereinafter," and "herewith" refer to this Indenture;

## Indenture

(c) except as otherwise defined herein, the capitalized terms used herein shall have the respective meanings specified in Schedule X hereto; and

(d) all accounting terms not otherwise defined herein shall have the meanings assigned to them in accordance with generally accepted accounting principles.

SECTION 1.02. Acts of Holders. (a) Any request, demand, authorization, direction, consent, notice, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an attorney-in-fact duly appointed in writing; and, except as otherwise provided herein, such action shall become effective when such instrument or instruments are delivered to the Indenture Trustee together with evidence of the power of attorney satisfactory to the Indenture Trustee. Such written instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of the execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Indenture Trustee or of the Owner Trustee if made in the manner provided in this Section 1.02.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the Person signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by an officer of a corporation or a member of a partnership, on behalf of such corporation or partnership, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Indenture Trustee deems sufficient.

(c) The ownership of Certificates shall be proved exclusively by the Certificate Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other action by the Holder of any Certificate shall bind the Holder of every Certificate issued

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upon the registration of transfer thereof, or in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Indenture Trustee or the Owner Trustee in reliance thereon, whether or not notation of such action is made upon such Certificate.

SECTION 1.03. Notices, Etc. to Indenture Trustee and Owner Trustee. Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with,

(1) the Indenture Trustee by any Holder or by the Owner Trustee shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with the Indenture Trustee at Mercantile-Safe Deposit and Trust Company, P.O. Box 2258, Two Hopkins Plaza, Baltimore, Maryland 21203, Attention: Corporate Trust Department, or

(2) the Owner Trustee by any Holder or by the Indenture Trustee shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with the Owner Trustee at 79 South Main Street, Salt Lake City, Utah 84130, Attention: Corporate Trust Department, with a copy to the Owner Participant at Suite 4500, 200 International General Circle, Hunt Valley, Maryland 21031, Attention: General Counsel;

or to either of the above parties at any other address subsequently furnished in writing by such party to the other party.

SECTION 1.04. Notices to Holders; Waiver. Where this Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, postage prepaid, by first class mail, to each Holder affected by such event at his address as it appears in the Certificate Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice or, unless and until Definitive Certificates (as hereinafter defined) are issued pursuant to Section 2.08(d) hereof, to the Clearing Agency (as hereinafter defined). In any case where notice to Holders is given by mail, neither the failure to mail such a notice to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Indenture provides for

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notice in any manner, such notice may be waived in writing by the Person or Persons entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Indenture Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 1.05. Effect of Headings and Table of Contents. The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

SECTION 1.06. Successors and Assigns. All covenants and agreements in this Indenture by the Indenture Trustee and the Owner Trustee shall bind and, to the extent permitted hereby, shall inure to the benefit of and be enforceable by their respective successors and assigns, whether or not so expressed.

SECTION 1.07. Severability Clause. If any term or provision hereof or the application thereof to any circumstance shall, in any jurisdiction and to any extent, be invalid or unenforceable, such term or provision shall be ineffective as to such jurisdiction to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining terms and provisions hereof or the application of such term or provisions hereof or the application of such term or provision to circumstances other than those as to which it is held invalid or unenforceable. To the extent permitted by applicable law the parties hereto hereby waive any provision of law which renders any term or provision hereof invalid or unenforceable in any respect.

SECTION 1.08. Benefits of Indenture. Nothing in this Indenture or in the Certificates, express or implied, shall give to any Person, other than the parties hereto and the Owner Participant and their successors and assigns hereunder, the Holders, and the Lessee any benefit or any legal or equitable right, remedy or claim under this Indenture or any Certificate.

SECTION 1.09. Indenture and Certificates; Non-Recourse Obligations. The principal amount of and Premium, if any, and interest on the Certificates and other amounts payable hereunder shall be payable only out of and to the extent that there are sufficient proceeds from the Indenture Estate. By its acceptance of a Certificate, any Holder thereof agrees that neither the

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Owner Trustee (or any successor thereto) in its individual capacity nor the Owner Participant shall have any personal liability whatsoever for any amounts payable under the Certificates, or, except as otherwise set forth in this Section 1.09, for any claim based thereon or otherwise in respect thereof or based on or in respect of this Indenture, it being expressly understood that the Certificates and, except as otherwise set forth in this Section 1.09, all other obligations of the Owner Trustee and the Owner Participant under this Indenture are solely nonrecourse obligations and that, except as otherwise set forth in this Section 1.09, all such obligations of the Owner Trustee and the Owner Participant are and are to be by acceptance of a Certificate by any Holder thereof expressly waived and released as a condition of, and as consideration for, the execution of this Indenture and the issuance of the Certificates; provided, however, that nothing herein shall be deemed to (i) prevent recourse to and the enforcement against the Indenture Estate for performance of covenants of the Owner Trustee contained in the Certificates, this Indenture, the Participation Agreement, or any Indenture Estate Document or for all liabilities, obligations and undertakings contained in this Indenture, the Certificates, the Participation Agreement, or any Indenture Estate Document or be deemed to excuse the Owner Trustee for liability for its own negligence or wilful misconduct or (ii) limit the Owner Trustee's personal liability for and to the extent of any loss resulting from (A) any inaccuracy of any representation or warranty stated to be made by the Owner Trustee in its individual capacity in Section 9(a) of the Participation Agreement or in this Indenture, or (B) any failure of the Owner Trustee to perform its obligations under Section 15 of the Participation Agreement.

If (a) the Owner Trustee becomes a debtor subject to the reorganization provisions of Title 11 of the United States Code, or any successor provision, (b) pursuant to such reorganization provisions the Owner Trustee is required, by reason of the Owner Trustee being held to have recourse liability to the Holders of the Certificates or the Indenture Trustee, directly or indirectly, to make payment of account of any amount payable under such Certificates or any of the other Operative Documents, in respect of which amounts the Owner Trustee is not personally liable as provided herein and (c) any such Holders or the Indenture Trustee actually receives any Excess Amount which reflects any payment by the Owner Trustee on account of (b) above, then such Holders or the Indenture Trustee, as the case may be, shall promptly refund to the Owner Trustee such Excess Amount. For purposes of this Section 1.09, "Excess Amount" means

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the amount by which such payment exceeds the amount which would have been received by such Holders or the Indenture Trustee if the Owner Trustee had not become subject to the recourse liability referred to in (b) above.

SECTION 1.10. Governing Law. This Indenture shall in all respects be governed by, and construed in accordance with, the laws of the State of New York.

If any provision of this Indenture limits, qualifies, or conflicts with the duties imposed by the Trust Indenture Act of 1939, as amended, the imposed duties shall control.

SECTION 1.11. Normal Commercial Relations. Anything contained in this Indenture to the contrary notwithstanding, the Owner Participant, the Indenture Trustee and any Holder, or any bank or other affiliate of any such party, may conduct any banking or other financial transactions, and have banking or other commercial relationships, with the Lessee fully to the same extent as if this Indenture were not in effect, including without limitation the making of loans or other extensions of credit to the Lessee for any purpose whatsoever, whether related to any of the transactions contemplated hereby or otherwise.

SECTION 1.12. ERISA Plan Prohibition. No employee benefit plan subject to Part 4 of Subtitle B of Title I of ERISA, or individual retirement account or employee benefit plan subject to Section 4975 of the Code (hereinafter collectively referred to as an "ERISA Plan"), may acquire or hold any of the Certificates. The purchase by any Person of any Certificate shall be deemed to constitute a representation by such Person to the Lessee, the Owner Participant, the Owner Trustee and the Indenture Trustee that such Person is not purchasing, and has not purchased, such Certificate with assets of an ERISA Plan.

SECTION 1.13. Statements Required in Certificate or Opinion. Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

(1) a statement that the person making such certificate or opinion has read such covenant or condition;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the

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statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(4) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

## ARTICLE II

### Issue, Execution, Form and Registration of Certificates

SECTION 2.01. Execution, Authentication and Delivery; Dating of Certificates. Upon execution and delivery of this Indenture, or from time to time thereafter, Certificates in an aggregate principal amount not in excess of the amount specified in Section 2.02 (except as otherwise provided in Sections 2.03 and 2.04) shall be executed by the Owner Trustee and delivered to the Indenture Trustee for authentication, and the Indenture Trustee shall thereupon authenticate and deliver said Certificates to or upon an Owner Trustee Request, without any further action by the Owner Trustee hereunder.

Each Certificate shall be dated the date of its issuance.

No Certificate shall be secured by or entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Certificate a certificate of authentication, in the form provided for in Exhibit A hereto, executed by the Indenture Trustee by the manual signature of one of its authorized officers, and such certificate of authentication upon any Certificate shall be conclusive evidence, and the only evidence, that such Certificate has been duly authenticated and delivered hereunder.

SECTION 2.02. Form and Terms of Certificates; Payments of Principal, Premium and Interest. The Certificates shall be designated as "8.41% 1991 Equipment Trust Certificates, Series A." The Certificates and the Indenture Trustee's certificates of

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authentication shall be substantially in the form set forth in Exhibit A hereto. The Certificates shall be issuable as registered securities without coupons and shall be numbered, lettered, or otherwise distinguished in such manner as the Owner Trustee executing the same may determine with the approval of the Indenture Trustee.

The aggregate principal amount of Certificates that may be authenticated and delivered under this Indenture is limited as provided in the form of Certificate attached as Exhibit A hereto. The Certificates shall be issued in registered form only and shall be issued in the principal amounts, and shall bear interest at the rates per annum, specified in the form of Certificate set forth in Exhibit A hereto.

The principal of the Certificates shall be payable in installments, on the dates and in the amounts specified in the form of Certificate attached as Exhibit A hereto. In case of partial redemption of the Certificates, the installments of principal payable after such redemption shall be reduced, pro rata, by the principal amount of such redemption.

Any of the Certificates may be issued with appropriate insertions, omissions, substitutions and variations, and may have imprinted or otherwise reproduced thereon such legend or legends, not inconsistent with the provisions of this Indenture, as may be required to comply with any law or any rules or regulations pursuant thereto, or with the rules of any securities market in which the Certificates are admitted to trading, or to conform to general usage.

Each Certificate shall bear interest as provided on the face of such Certificate from the date of issuance thereof or from the most recent date to which interest has been paid and duly provided for, as the case may be, which shall be payable on the dates specified on the face of such Certificate until the principal thereof is paid or made available for payment. Interest shall be calculated on the basis of a 360-day year of twelve 30-day months.

The principal of, and Premium, if any, and interest on, the Certificates shall be payable at the principal corporate trust office of the Indenture Trustee or at any office or agency maintained for such purpose pursuant to Section 7.17 hereof (in such capacity, the "Paying Agent"); provided, however, that interest, premium, if any, and installments of principal may be

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payable at the option of the Indenture Trustee by mailing checks for such amounts payable to or upon the written order of the Holders entitled thereto at their respective addresses appearing on the Certificate Register or by wire transfer to their respective accounts specified in writing to the Indenture Trustee. Final payment of any Definitive Certificate shall be made only against surrender of such Certificate to the Indenture Trustee.

Each Holder at the close of business on any Record Date with respect to any Payment Date shall be entitled to receive the principal and interest, if any, payable on such Payment Date notwithstanding any transfer or exchange of its Certificate subsequent to the Record Date and prior to such Payment Date, except if and to the extent the Owner Trustee shall default in the payment of the principal and interest due on such Payment Date, in which case such defaulted amount and, to the extent permitted by Applicable Law, interest thereon at the Overdue Rate to the date of payment ("Defaulted Payment") shall be paid by the Indenture Trustee, at its election, as provided in clause (1) or (2) below:

(1) The Indenture Trustee may elect to make payment of any Defaulted Payment to each Person in whose name any Certificate is registered at the close of business on a special record date for the payment of such Defaulted Payment, which shall be fixed in the following manner. The Indenture Trustee shall make arrangements to set aside an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Payment, prior to the date of the proposed payment, to be held in trust for the benefit of the Persons entitled to such Defaulted Payment as this clause provides and shall fix a special record date for the payment of such Defaulted Payment which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment. The Indenture Trustee shall promptly notify the Owner Trustee and the Lessee of such special record date and shall cause notice of the proposed payment of such Defaulted Payment and the special record date therefor to be mailed, first class postage prepaid, to each Holder of a Certificate at his address as it appears in the Certificate Register, not less than 10 days prior to such special record date. Notice of the proposed payment of such Defaulted Payment and the special record date therefor having been mailed, as aforesaid, such Defaulted Payment shall be paid to the Persons in whose names the applicable Certificates are registered on such

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special record date and shall no longer be payable pursuant to the following clause (2).

(2) The Indenture Trustee may make, or cause to be made, payment of any Defaulted Payment in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Certificates may be listed, and upon such notice as may be required by such exchange, if such payment shall be deemed practicable by the Indenture Trustee.

SECTION 2.03. Temporary Certificates. Pending the preparation of definitive Certificates, the Owner Trustee may execute and the Indenture Trustee shall authenticate and deliver temporary Certificates (printed, lithographed, typewritten or otherwise reproduced, in each case in form satisfactory to the Indenture Trustee). Temporary Certificates shall be issuable as registered Certificates without coupons, of any authorized denomination, and substantially in the form of the definitive Certificates but with such omissions, insertions and variations as may be appropriate for temporary Certificates, all as may be determined by the Owner Trustee with the concurrence of the Indenture Trustee. Temporary Certificates may contain such reference to any provisions of this Indenture as may be appropriate. Every temporary Certificate shall be executed by the Owner Trustee and be authenticated by the Indenture Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Certificates. Without unreasonable delay the Owner Trustee shall execute and shall furnish definitive Certificates and thereupon temporary Certificates shall be surrendered in exchange therefor without charge at any office or agency to be maintained by the Indenture Trustee for the purpose pursuant to Section 2.04, and the Indenture Trustee shall authenticate and deliver in exchange for such temporary Certificates an equal aggregate principal amount of definitive Certificates. Until so exchanged, temporary Certificates shall be entitled to the same security and benefits under this Indenture as definitive Certificates.

SECTION 2.04. Registration, Restrictions on Transfer and Exchange of Certificates. The Indenture Trustee shall keep at an office or agency to be maintained in New York, New York or Baltimore, Maryland a register for the registration of Certificates. Registration of transfer of Certificates may be effected only as set forth in this Section 2.04. Such register is herein sometimes referred to as the "Certificate Register". The Indenture Trustee shall act as the registrar of the Owner

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Trustee with respect to the Certificate Register (in such capacity, the "Registrar"). The Indenture Trustee may appoint one or more co-registrars (the "Co-Registrars") for the Certificates and the Indenture Trustee may terminate the appointment of any Co-Registrar at any time upon written notice. The term "Registrar" includes any Co-registrar.

Upon surrender for registration of transfer of any Certificate to the Indenture Trustee and satisfaction of the other requirements of this Section 2.04, the Owner Trustee shall execute, and the Indenture Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Certificates, of any authorized denominations and of a like aggregate principal amount and the Indenture Trustee shall register such transfer on the Certificate Register maintained by it.

At the option of any Holder, its Certificates may be exchanged for other Certificates, of any denomination and of like aggregate principal amounts upon surrender to the Indenture Trustee of the Certificates to be exchanged. Whenever any Certificates are so surrendered for exchange, the Owner Trustee shall execute, and the Indenture Trustee shall authenticate and deliver, the Certificates which the Holder making the exchange is entitled to receive.

All Certificates issued upon any transfer or exchange of Certificates shall be the valid obligations of the Owner Trustee, evidencing the same obligations, and entitled to the same security and benefits under this Indenture, as the Certificates surrendered upon such transfer or exchange.

Every Certificate presented or surrendered for registration of transfer or exchange shall be duly endorsed by, or be accompanied by a written instrument of transfer in form satisfactory to the Indenture Trustee and the Owner Trustee duly executed by, the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made for any transfer or exchange of Certificates, but the Owner Trustee and the Indenture Trustee may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Certificates.

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The Indenture Trustee shall not be required to transfer or exchange any Certificate (a) for a period of 15 days before the mailing of a notice of redemption of such Certificate or (b) with respect to which notice of redemption has been given pursuant to Section 4.02 and such notice has not been revoked and the Record Date therefor has passed.

SECTION 2.05. Mutilated, Destroyed, Lost and Stolen Certificates. If (i) any mutilated Certificate is surrendered to the Indenture Trustee, or if satisfactory evidence of the destruction, loss or theft of any Certificate is presented to the Indenture Trustee and the Owner Trustee, and (ii) there is delivered to the Indenture Trustee and the Owner Trustee such security or indemnity as may be reasonably required by either of them to save each of them harmless, then, in the absence of notice to the Indenture Trustee or the Owner Trustee that such Certificate has been acquired by a bona fide purchaser, the Owner Trustee shall execute and the Indenture Trustee shall authenticate and deliver, in exchange for any such mutilated Certificate, or in lieu of any such destroyed, lost or stolen Certificate, a new Certificate of like principal amount.

Upon the issuance of any new Certificate under this Section, the Indenture Trustee and the Owner Trustee may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Indenture Trustee) connected therewith.

Every new Certificate issued pursuant to this Section in lieu of any destroyed, lost or stolen Certificate shall constitute an original additional contractual obligation hereunder, whether or not the destroyed, lost or stolen Certificate shall be at any time enforceable by the holder thereof, and each such new Certificate shall be entitled to all the security and benefits of the Certificate so destroyed, lost or stolen, equally and proportionately with any and all other Certificates duly issued hereunder.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement of mutilated, destroyed, lost or stolen Certificates.

SECTION 2.06. Persons Deemed Owners. The Owner Trustee and the Indenture Trustee may treat the Person in whose

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name any Certificate is registered as the owner thereof for the purpose of receiving payment of principal of, and Premium, if any, and interest on, such Certificate and for all other purposes whatsoever, whether or not payment on such Certificate shall be overdue, and neither the Owner Trustee nor the Indenture Trustee shall be affected by notice to the contrary.

SECTION 2.07. Cancellation. All Certificates surrendered for payment, redemption, transfer or exchange shall, if surrendered to the Owner Trustee or any agent of the Owner Trustee or of the Indenture Trustee, be delivered to the Indenture Trustee and promptly cancelled by it, or, if surrendered to the Indenture Trustee, shall be promptly cancelled by it, and no Certificates shall be issued in lieu thereof except as expressly permitted by the provisions of this Indenture. The Indenture Trustee shall destroy cancelled Certificates and shall deliver a certificate of such destruction to the Owner Trustee upon request therefor. If the Owner Trustee shall acquire any of the Certificates, however, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Certificates unless and until the same are delivered to the Indenture Trustee for cancellation.

### Section 2.08 Book-Entry and Definitive Certificates.

(a) The original Certificates may be issued in the form of one or more typewritten Certificates representing the Book-Entry Certificates, to be delivered in the manner provided for in the Letter of Representations to The Depository Trust Company ("DTC"), the initial Clearing Agency, by, or on behalf of, the Lessee. In such case, the Certificates delivered to DTC shall initially be registered on the Certificate Register in the name of Cede & Co., the nominee of the initial Clearing Agency, and a Certificate Owner will only receive a definitive certificate representing such Certificate Owner's interest in the Certificates as provided in subsection (d) below. Unless and until definitive, fully registered Certificates (the "Definitive Certificates") have been issued pursuant to subsection (d) below:

(i) the provisions of this Section 2.08 shall be in full force and effect;

(ii) the Lessee, the Paying Agent, the Registrar and the Indenture Trustee may deal with the Clearing Agency for all purposes (including the making of distributions on the Certificates) as the authorized representative of the Certificate Owners;

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(iii) to the extent that the provisions of this Section 2.08 conflict with any other provisions of this Indenture, the provisions of this Section 2.08 shall control;

(iv) the rights of Certificate Owners shall be exercised only through the Clearing Agency and shall be limited to those established by law and agreements between such Certificate Owners and the Clearing Agency Participants; and until Definitive Certificates are issued pursuant to subsection (d) below, the Clearing Agency will make book-entry transfers among the Clearing Agency Participants and receive and transmit distributions of principal of and interest and Premium, if any, on the Certificates to such Clearing Agency Participants; and

(v) whenever this Indenture requires or permits actions to be taken based upon instructions or direction of Holders holding a specified percentage in principal amount of Outstanding Certificates, the Clearing Agency shall be deemed to represent such percentage only to the extent that it has received instructions to such effect from Certificate Owners or Clearing Agency Participants owning or representing, respectively, such required percentage in principal amount of Outstanding Certificates and has delivered such instructions to the Indenture Trustee. The Indenture Trustee shall have no obligation to determine whether the Clearing Agency has in fact received any such instructions.

(b) Whenever notice or other communication to the Holders is required under this Agreement, unless and until Definitive Certificates shall have been issued pursuant to subsection (d) below, the Indenture Trustee shall give all such notices and communications specified herein to be given to Holders to the Clearing Agency, and shall make available additional copies as requested by such Clearing Agency.

(c) Unless and until Definitive Certificates are issued pursuant to subsection (d) below, on the Record Date prior to each Payment Date, the Indenture Trustee will request from the Clearing Agency a securities position listing (or comparable document) setting forth the names of all Clearing Agency Participants reflected on the Clearing Agency's books as holding interests in the Certificates on such Record Date. The Indenture Trustee will mail to each such Clearing Agency Participant the

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statements required by paragraph 10 of the Letter of Representations and, within a reasonable period of time after the end of each calendar year (but not later than the latest date permitted by law) a statement identifying, for a Certificate with an original principal amount of \$1,000, the amount of principal, premium, if any, and interest paid during such calendar year.

(d) If (i) a Certificate Owner transfers its interest to a Person for whom the Clearing Agency is ineligible to act in accordance with the rules and regulations of the Clearing Agency, as such rules and regulations may from time to time be amended (any such Person being an "Ineligible Transferee"), (ii) Lessee advises the Indenture Trustee in writing that the Clearing Agency is no longer willing or able to properly discharge its responsibilities and the Lessee is unable to locate a qualified successor, (iii) the Lessee, at its option, advises the Indenture Trustee in writing that it elects to terminate the book-entry system through the Clearing Agency or (iv) after the occurrence of an Indenture Event of Default, Certificate Owners holding not less than a majority in principal amount of Outstanding Certificates held by Certificate Owners advise the Indenture Trustee and the Clearing Agency through the Clearing Agency Participants in writing that the continuation of a book-entry system through the Clearing Agency is no longer in the best interests of the Certificate Owners, then (A) in the case of (i) above, the Indenture Trustee shall (1) cancel the Certificate registered in the name of Cede & Co., (2) complete the procedures specified in the Letter of Representations and (3) authenticate and deliver a Definitive Certificate in the name of the Ineligible Transferee as provided in Sections 2.01 and 2.02 in an authorized denomination equal to the Ineligible Transferee's aggregate principal amount and shall authenticate and deliver a new Certificate registered in the name of Cede & Co. equal in amount to the aggregate principal amount of the surrendered Certificate reduced by the aggregate principal amount transferred to such Ineligible Transferee; and (B) in the case of (ii) through (iv) above, the Indenture Trustee shall notify all Certificate Owners, through the Clearing Agency, of the occurrence of any such event and of the availability of Definitive Certificates. Upon surrender to the Indenture Trustee of all the Certificates held by the Clearing Agency, accompanied by registration instructions from the Clearing Agency for registration of Definitive Certificates in the names of Certificate Owners, the Indenture Trustee shall authenticate and deliver Definitive Certificates in accordance with the instructions of the Clearing Agency. None of Lessee, the

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Registrar, the Paying Agent or the Indenture Trustee shall be liable for any delay in delivery of such instructions and may conclusively rely on, and shall be protected in relying on, such registration instructions. Upon the issuance of Definitive Certificates, the Indenture Trustee shall recognize the Person in whose name the Definitive Certificates are registered in the Register as Holders hereunder. Neither Lessee nor the Indenture Trustee shall be liable if the Indenture Trustee or Lessee is unable to locate a qualified successor Clearing Agency.

(e) (i) So long as an arrangement as contemplated by this Indenture exists between Lessee and a Clearing Agency, in the event an Ineligible Transferee subsequently transfers its Definitive Certificate to a Person for whom the Clearing Agency is eligible to act in accordance with the rules and regulations of the Clearing Agency, as such rules and regulations may from time to time be amended, and such Person notifies the Indenture Trustee in writing that such Person wishes to hold its Certificate through the Clearing Agency, the Indenture Trustee shall, upon surrender to the Indenture Trustee of the Definitive Certificate, (A) cancel both the existing Certificate registered in the name of the Clearing Agency or its nominee and the Definitive Certificate, (B) complete the procedures specified in the Letter of Representations and (C) issue, authenticate and deliver a new Certificate registered in the name of the Clearing Agency or its nominee in an amount equal to the aggregate principal amount of the transferred Definitive Certificate.

(ii) In the event that the Ineligible Transferee subsequently transfers its Definitive Certificate to another Ineligible Transferee, the Indenture Trustee shall effect such transfer in accordance with Section 2.04.

(f) The Indenture Trustee shall enter into the Letter of Representations and fulfill its responsibilities thereunder.

### ARTICLE III

#### Holder Lists

SECTION 3.01. Holder Lists. The Lessee shall furnish or cause to be furnished to the Indenture Trustee semiannually on or before the 15th day of February and August in each year, and at such other times as the Indenture Trustee may request in writing, a list, in such form and as of such date as the

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Indenture Trustee may reasonably require, containing all the information in the possession or control of the Lessee or any of its Paying Agents as to the names and addresses of Holders. The Indenture Trustee shall preserve in as current a form as is reasonably practicable the most recent list so furnished to it or received by it in its capacity as Paying Agent, of the names and addresses of the Holders.

SECTION 3.02. Disclosure of Holder Lists. (a) In case three or more Holders (hereinafter referred to as "applicants") apply in writing to the Indenture Trustee and furnish to the Indenture Trustee reasonable proof that each such applicant has owned a Certificate for a period of at least six months preceding the date of such application, and such application states that the applicants desire to communicate with other Holders with respect to their rights under this Indenture or under the Certificates and it is accompanied by a copy of the form of proxy or other communication which such applicants propose to transmit, then the Indenture Trustee shall, within five Business Days after the receipt of such application, at its election, either

(i) afford to such applicants access to the information preserved at the time by the Indenture Trustee in accordance with the provisions of Section 3.01 hereof, or

(ii) inform such applicants as to the approximate number of Holders whose names and addresses appear in the information preserved at the time by the Indenture Trustee in accordance with the provisions of Section 3.01 hereof, and as to the approximate cost of mailing to such Holders the form of proxy or other communication, if any, specified in such application.

If the Indenture Trustee shall elect not to afford to such applicants access to such information, the Indenture Trustee shall, upon the written request of such applicants, mail to each Holder whose name and address appears in the information preserved at the time by the Indenture Trustee in accordance with the provisions of Section 3.01 hereof a copy of the form of proxy or other communication which is specified in such request, with reasonable promptness after a tender to the Indenture Trustee by such applicants of the material to be mailed and of payment, or provision for the payment, of the reasonable expenses of mailing, unless within five days after such tender, the Indenture Trustee shall mail to such applicants, and file with the Securities and

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Exchange Commission, together with a copy of the material to be mailed, a written statement to the effect that, in the opinion of the Indenture Trustee, such mailing would be contrary to the best interests of the Holders or would be in violation of applicable law. Such written statement shall specify the basis of such opinion.

(b) Each and every Holder, by receiving and holding a Certificate, agrees with the Owner Trustee, First Security and the Indenture Trustee that neither the Owner Trustee nor the Indenture Trustee shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the Holders in accordance with section 312 of the TIA or the provisions of this Article III, regardless of the source from which such information was derived, and that the Indenture Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under Section 3.02.

## ARTICLE IV

### Redemption and Assumption

SECTION 4.01. Redemption of Certificates. The Certificates shall, in the manner specified and subject to the provisions (including the provisions with respect to notice) set forth in this Article, be redeemable as follows:

(a) Redemption Upon the Occurrence of an Event of Loss. All of the Outstanding Certificates shall be redeemed in whole or in part subsequent to the occurrence of an Event of Loss with respect to any Unit for which replacements are not delivered pursuant to Section 11(c) of the Lease for an aggregate redemption price equal to the sum of (i) an amount equal, as to principal thereof, to the product obtained by multiplying the aggregate unpaid principal amount of the Outstanding Certificates as at the Redemption Date therefor by a fraction, the numerator of which shall be Lessor's Cost of such Unit and the denominator of which shall be aggregate Lessor's Cost of all Units included in the Indenture Estate as of the Redemption Date and (ii) the aggregate amount of interest accrued and unpaid to such Redemption Date on the principal amounts to be redeemed of the Outstanding Certificates to be redeemed wholly or partially on such Redemption Date, all as determined pursuant to Section 4.02(e), but without payment of any premium.

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(b) Redemption in the Event of Voluntary Termination.

All of the Outstanding Certificates shall be redeemed in whole or in part in the event of a voluntary termination of the Lease pursuant to Section 12 thereof with respect to any Unit for an aggregate redemption price equal to the sum of (i) an amount equal, as to principal thereof, to the product obtained by multiplying the aggregate unpaid principal amount of the Outstanding Certificates as at the Redemption Date therefor by a fraction, the numerator of which shall be Lessor's Cost of such Unit and the denominator of which shall be aggregate Lessor's Cost of all Units included in the Indenture Estate immediately prior to the relevant Termination Date, (ii) the aggregate amount of interest accrued and unpaid to such Redemption Date on the principal amounts to be redeemed of the Outstanding Certificates to be redeemed wholly or partially on such Redemption Date and (iii) if such redemption shall occur on or before September 1, 2001, the aggregate Premium, if any, applicable in respect of such principal amounts so to be redeemed as at such Redemption Date, all as determined pursuant to Section 4.02(e).

(c) Redemption in the Event of Refinancing.

The Outstanding Certificates shall be redeemed in whole in the event the Certificates are refinanced pursuant to Section 20 of the Participation Agreement for an aggregate redemption price equal to the sum of (i) 100% of the aggregate unpaid principal amount of such Certificates, (ii) the aggregate accrued and unpaid interest thereon to the Redemption Date, and (iii) if such redemption shall occur on or before September 1, 2001, the Premium, if any, applicable thereto.

(d) Redemption in Event of Purchase of Units.

In the event of the purchase of Units by the Lessee pursuant to Section 2(e) of the Lease, all of the Outstanding Certificates shall, except and to the extent that such purchase constitutes an Assumption Event in respect of which all conditions therefor pursuant to Section 4.03 have been satisfied, be redeemed for an aggregate redemption price (without any Premium) equal to the sum of (i) an amount equal, as to principal thereof, to the product obtained by multiplying the aggregate unpaid principal amount of the Certificates Outstanding at the Redemption Date therefor by a fraction, the numerator of which shall be aggregate Lessor's Cost of such Units and the denominator of which shall

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be aggregate Lessor's Cost of all Units included in the Indenture Estate immediately prior to the relevant purchase date, and (ii) the aggregate amount of interest accrued and unpaid to such Redemption Date on the principal amounts to be redeemed of the Outstanding Certificates to be redeemed wholly or partially on such Redemption Date.

(e) Redemption by Election of Owner Participant. The Outstanding Certificates shall be subject to redemption and shall be redeemed in whole pursuant to the provisions of Section 12.02(a).

(f) Redemption in Case of Failure to Close. In the event that any Unit listed on Schedule F to the Participation Agreement is not delivered at the Closing, all of the Outstanding Certificates shall be redeemed simultaneously with the issuance thereof in whole or in part for an aggregate redemption price equal to the sum of (i) an amount equal, as to principal thereof, to the product obtained by multiplying the aggregate unpaid principal amount of the Outstanding Certificates at the Redemption Date therefor by a fraction, the numerator of which shall be the Lessor's Cost of such Unit and the denominator of which shall be the aggregate Lessor's Cost for all Units listed on Exhibit F to the Participation Agreement and (ii) the aggregate amount of interest accrued and unpaid to such Redemption Date on the principal amounts to be redeemed of the Outstanding Certificates to be redeemed wholly or partially on such Redemption Date, but without payment of any premium.

SECTION 4.02. Redemption Date; Redemption Notice; Effect of Redemption, Etc. (a) The Redemption Date in respect of Outstanding Certificates to be redeemed pursuant to: (i) clause (a) of Section 4.01 shall be the date upon which payment of the relevant Stipulated Loss Value is required to be made by the Lessee pursuant to Section 11 of the Lease; (ii) clause (b) of Section 4.01 shall be the relevant Termination Date (which shall be a Payment Date); (iii) clause (c) of Section 4.01 shall be the applicable Refinancing Date; (iv) clause (d) of Section 4.01 shall be March 1, 2002; (v) clause (e) of Section 4.01 shall be the date specified in the notice delivered by the Owner Trustee to the Indenture Trustee pursuant to Section 12.02(a); and (vi) clause (f) of Section 4.01 shall be the Closing Date.

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(b) Except in the case of a redemption pursuant to clause (f) of Section 4.01, notice of redemption shall be given by the Indenture Trustee not less than 30 nor more than 60 days prior to the relevant Redemption Date to each Holder appearing on the Certificate Register. Each such notice of redemption shall specify the Redemption Date, the Record Date therefor, the aggregate principal amount of the Certificates to be redeemed, the date that is to be mailed to the Holders and any other amounts to be distributed to such Holder upon such redemption (including accrued interest and whether Premium may be payable) and in the case of redemption in full shall state the place or places where such Certificates are to be surrendered for payment.

Except in the case of a redemption pursuant to clause (f) of Section 4.01, notice of redemption shall be given by the Owner Trustee (or by the Lessee on behalf of the Owner Trustee) to the Indenture Trustee not less than 45 days prior to the relevant Redemption Date.

In the case of a redemption pursuant to clause (f) of Section 4.01, notice of redemption shall be given to each Holder on the Redemption Date. Each such notice of redemption shall specify the aggregate principal amount of the Certificates to be redeemed.

(c) If notice of a redemption shall have been given as above provided, and, with respect to any redemption other than a redemption pursuant to clause (f) of Section 4.01, there shall have been deposited on or prior to 11:00 A.M. (Baltimore Time) on the applicable Redemption Date with the Indenture Trustee and the Indenture Trustee shall by such time be holding for distribution pursuant to Section 10.02, the aggregate redemption price in respect of the redemption to occur on such Redemption Date, the principal to be redeemed of Certificates Outstanding specified in such notice shall become due and payable on such Redemption Date and, from and after such Redemption Date, interest on such principal amount of such Certificates shall cease to accrue and such principal amount shall no longer be deemed to be unpaid or Outstanding hereunder and such principal amount of such Certificates shall cease to be entitled to the benefit of this Indenture except that the Holders of the relevant Certificates shall be entitled to receive payment from moneys held by the Indenture Trustee for such redemption. The Indenture Trustee shall hold all such moneys in trust for the Holders thereof.

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(d) If any principal amount of any Certificate called for redemption or any amount of interest thereon (to the extent actually received from the Lessee) or Premium, if any, in respect thereof shall not be so paid on or after the applicable Redemption Date, such amount (to the extent permitted by Applicable Law) shall, until paid, bear interest from such Redemption Date at the per annum rate set forth on the face of such Certificate plus 1%.

(e) If there shall be a redemption of less than 100% of the unpaid principal amount of all the Outstanding Certificates, the unpaid principal amount of each Outstanding Certificate shall be redeemed in connection with such redemption on the applicable Redemption Date, pro rata among the Holders, in an amount equal to the product obtained by multiplying the aggregate amount for all Certificates Outstanding in respect of principal included in the applicable redemption price determined in accordance with the subsection (a), (b), (d) or (f) of Section 4.01, as applicable, by a fraction, the numerator of which shall be the unpaid principal amount of such Certificate as at such Redemption Date and the denominator of which shall be the aggregate unpaid principal amount of all Outstanding Certificates as at such Redemption Date, and the determination of accrued and unpaid interest thereon to such Redemption Date and of Premium, if any, as at such Redemption Date payable in connection with such redemption shall be effected accordingly. The installments of principal payable on each Certificate after such partial redemption shall be reduced, pro rata, by the principal amount of such redemption.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Certificates shall relate, in the case of any Certificate redeemed or to be redeemed only in part, to the portion of the principal of such Certificate which has been or is to be redeemed.

(f) Notwithstanding any provision herein to the contrary, in connection with a redemption pursuant to clause (f) of Section 4.01, the payment by the Indenture Trustee of the redemption price payable upon such redemption shall be offset against the payment of the purchase price of the Certificates made to the Indenture Trustee for the benefit of the Owner Trustee pursuant to Section 2(c) of the Purchase Agreement relating to the Certificates between the Lessee and Merrill Lynch, Pierce, Fenner & Smith Incorporated.

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SECTION 4.03. Assumption of Certificates. (a) In the event of the occurrence of an Assumption Event and upon satisfaction of the terms and conditions set forth in subsection (b) hereof, all or a pro rata portion (as the case may be) of the obligations and liabilities of the Owner Trustee hereunder and under the Certificates shall be assumed by the Lessee and the Owner Trustee shall be released and discharged without further act or formality whatsoever from all or a pro rata portion (as the case may be) of such obligations and liabilities, in each case by instruments in form and substance reasonably satisfactory to the Owner Trustee, the Owner Participant and the Indenture Trustee.

(b) Any assumption pursuant to the foregoing subsection (a) of this Section shall be subject to compliance to the satisfaction of the Indenture Trustee with the following conditions and the delivery of an Officer's Certificate of the Lessee to the effect that the below enumerated conditions (to the extent such conditions relate to the Lessee) have been duly complied with:

(i) the Owner Trustee and the Indenture Trustee shall have executed and delivered a supplemental indenture pursuant to Section 8.01 releasing from the Lien of this Indenture the Units in respect of which an Assumption Event shall have occurred;

(ii) (x) the Lessee shall have made all relevant payments and done all other things necessary under the Lease with respect to such Assumption Event, (y) the Lessee and the Indenture Trustee shall have executed and delivered for the benefit of the Holders documentation in form and substance satisfactory to the Indenture Trustee evidencing the granting of a security interest by the Lessee in the Units in respect of which an Assumption Event has occurred and the undertaking by the Lessee of the obligations in respect of principal, interest and Premium, if any, on the Certificates or portions thereof as shall correspond to such Units, in each case, on substantially the same terms provided for in this Indenture and other appropriate undertakings by the Lessee on substantially the same terms provided for in the Lease and (z) the Lessee shall have executed, delivered and filed such financing statements as the Indenture Trustee may at such time reasonably deem necessary or appropriate to perfect such security interest;

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(iii) no Default, Event of Default, Indenture Default or Indenture Event of Default, after giving effect to the transactions contemplated by this Section 4.03 shall have occurred and be continuing; and

(iv) the Lessee shall have delivered to the Indenture Trustee an Opinion of Counsel to the effect that:

(A) each of the documentation executed and delivered by the Lessee pursuant to paragraph (a) of this Section or clauses (i) and (ii) of this paragraph (b) constitutes a legal, valid and binding obligation of the Lessee, enforceable in accordance with its terms, except as the enforceability thereof may be limited by (i) bankruptcy, insolvency, reorganization or other similar laws of general application affecting creditors' rights and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and creates a legal, valid and perfected first-priority Lien on and security interest in the Units and the other property and rights with respect thereto in favor of the Indenture Trustee;

(B) after such assumption, such Units purchased by the Lessee will be free and clear of all Liens of record, other than Permitted Encumbrances and the Indenture Trustee and the Indenture Estate will, subsequent to such assumption, continue to have the benefits of section 1168 of the Federal Bankruptcy Code as to such Units and will continue to have such benefits as to all other Units as were available immediately prior to such Assumption Event;

(C) all authorizations, consents, approvals and exemptions of, or other action by, all regulatory bodies necessary in connection with the execution and delivery of the documentation required by this Section 4.03 and in connection with the conveyance and transfer of title to such Units purchased by the Lessee from the Owner Trustee have been obtained (specifying the same), or that no such authorization, consent, approval, exemption or other action is required;

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(D) no other action is necessary or advisable in order to establish and perfect the Lessee's title to and interest in such Units purchased by the Lessee as against the Owner Trustee or any third party;

(E) such recordings, registrations and filings and such other actions have been taken as are required by law to perfect, preserve and protect the security interest granted in the Units in respect of which an Assumption Event has occurred and the other property and rights with respect thereto and reciting the details of such action or stating that, in the opinion of such counsel, no such action is necessary to perfect, preserve and protect such Lien;

(F) the Lessee has duly complied with all its obligations hereunder and under the Lease and all other conditions hereunder and under the Lease have been satisfied, in each case with respect to such Assumption Event; and

(G) such assumption will not result in a taxable sale or exchange of any Certificate as to any Holder thereof.

Notice of any assumption pursuant to this Section shall be given to the Holders of the Certificates (and any assignee of a registered Holder which has given the Indenture Trustee written notice of such assignment) as promptly as practicable after the Indenture Trustee is notified thereof. Upon surrender of Certificates Outstanding for such purpose, (x) the Owner Trustee will cancel such Certificates and execute and deliver, and the Indenture Trustee will authenticate, new Certificates evidencing the then outstanding obligations of the Owner Trustee in respect of the Units remaining subject to the Lien of this Indenture after such Assumption Event and (y) the Lessee shall execute and deliver new Certificates evidencing the liability of the Lessee so assumed, with full recourse, secured by the documents referred to in clause (ii) of this Section 4.03(b).

SECTION 4.04. Deposit of Redemption Price. The Owner Trustee shall, on or prior to any Redemption Date deposit with the Indenture Trustee by 11:00 A.M. (Baltimore time), in immediately available funds, an amount equal to the aggregate redemption price in respect of the Certificates to be redeemed on such Redemption Date and, to the extent there shall not, on any

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Redemption Date, have been deposited with the Indenture Trustee and be held in the Indenture Estate for distribution pursuant to Section 10.02 an amount equal to the aggregate redemption price in respect of the redemption to occur on such Redemption Date, the Owner Trustee shall deposit with the Indenture Trustee by 1:00 P.M. (Baltimore time), in immediately available funds an amount equal to the difference between the amount then so held in the Indenture Estate and such aggregate redemption price. Upon deposit of such amount on or prior to such Redemption Date, interest shall cease to accrue as at such Redemption Date in respect of the principal amount of Certificates to be redeemed on such Redemption Date.

### ARTICLE V

#### Satisfaction and Discharge

SECTION 5.01. Satisfaction and Discharge of Indenture; Release of Indenture Estate. If at any time (a) the Owner Trustee shall have paid or caused to be paid the principal of, Premium, if any, and interest on all the Certificates Outstanding hereunder, as and when the same shall have become due and payable, or (b) the Owner Trustee shall have delivered to the Indenture Trustee for cancellation all Certificates theretofore authenticated (other than any Certificates which shall have been destroyed, lost or stolen and which shall have been replaced or paid as provided in Section 2.05) or (c) (i) all such Certificates not theretofore delivered to the Indenture Trustee for cancellation shall have become due and payable, or are by their terms to become due and payable within one year or are to be called for redemption under arrangements satisfactory to the Indenture Trustee for the giving of notice of redemption by the Indenture Trustee in the name and at the expense of the Owner Trustee, and (ii) the Owner Trustee shall have irrevocably deposited or caused to be deposited with the Indenture Trustee as trust funds the entire amount in cash (other than moneys repaid by the Indenture Trustee to the Owner Trustee in accordance with Section 5.03) or Government Obligations maturing as to principal and interest in such amounts and at such times as will insure the availability of cash sufficient to pay when due principal, Premium, if any, and interest on all such Outstanding Certificates, including principal, Premium, if any, and interest due or to become due to such date of maturity, as the case may be; and if, in any such case, the Owner Trustee shall also pay or cause to be paid all other sums payable hereunder by the Owner

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Trustee, then this Indenture shall cease to be of further effect (except as to (i) rights of registration of transfer and exchange, and the Owner Trustee's rights of optional redemption, (ii) substitution of mutilated, or destroyed, lost or stolen Certificates, (iii) rights of Holders to receive payments of principal thereof and interest thereon, upon the original stated due dates therefor (but not upon acceleration), (iv) the rights, obligations, indemnities and immunities of the Indenture Trustee hereunder and (v) the rights of the Holders as beneficiaries hereof with respect to the property so deposited with the Indenture Trustee payable to all or any of them), and the Indenture Trustee, on demand of the Owner Trustee accompanied by an Officer's Certificate and an Opinion of Counsel and at the cost and expense of the Owner Trustee, shall execute proper instruments acknowledging such satisfaction of and discharging this Indenture. The Owner Trustee agrees to reimburse and indemnify the Indenture Trustee for any costs or expenses (including, without limitation, attorney's fees and expenses) thereafter reasonably and properly incurred and to compensate the Indenture Trustee for any services thereafter reasonably and properly rendered by the Indenture Trustee in connection with this Indenture or the Certificates.

Upon (or at any time after) payment in full to the Indenture Trustee, as trust funds, of the principal of and interest on and Premium, if any, and all other amounts due under all Certificates Outstanding, and provided that there shall then be no other amounts due to the Holders and the Indenture Trustee hereunder or under the Indenture Estate Documents or otherwise secured hereby, the Owner Trustee shall direct the Indenture Trustee to execute and deliver to or as directed in writing by the Owner Trustee an appropriate instrument releasing the property subject thereto from the Lien of this Indenture, and the Indenture Trustee shall execute and deliver such instrument as aforesaid and, at the Owner Trustee's expense, will execute and deliver such other instruments or documents as may be reasonably requested by the Owner Trustee to give effect to such release; provided, however, that this Indenture and the trusts created hereby shall terminate earlier and this Indenture shall be of no further force or effect upon any sale or other final disposition by the Indenture Trustee of all property forming a part of the Indenture Estate and the final distribution by the Indenture Trustee of all moneys or other property or proceeds constituting part of the Indenture Estate in accordance the terms hereof. Except as aforesaid otherwise provided, this Indenture and the

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trusts created hereby shall continue in full force and effect in accordance with the terms hereof.

SECTION 5.02. Application by Indenture Trustee of Funds Deposited for Payment of Certificates. Subject to Section 5.03, all moneys deposited with the Indenture Trustee pursuant to Section 5.01 shall be held in trust for the benefit of the Holders and applied by it to the payment when due of all sums due and to become due thereon for principal, interest and Premium, if any; but such money need not be segregated from other funds except to the extent required by law.

SECTION 5.03. Transfer of Moneys Held by Indenture Trustee and Paying Agent Unclaimed for Two Years and Eleven Months. Any moneys deposited with or paid to the Indenture Trustee for the payment of the principal of or interest or Premium on any Certificate and not applied but remaining unclaimed for two years and eleven months after the date upon which such principal, interest or Premium shall have become due and payable, shall, unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property law, be paid to the Owner Trustee by the Indenture Trustee and the Holder of such Certificate, as a general unsecured creditor, shall, unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property laws, thereafter look only to the Owner Trustee (subject to Section 28(g) of the Participation Agreement) for any payment which such Holder may be entitled to collect, and all liability of the Indenture Trustee, with respect to such moneys shall thereupon cease.

## ARTICLE VI

### Events of Default; Remedies

SECTION 6.01. Indenture Events of Default. "Indenture Events of Default," wherever used herein, shall mean any one of the following events (whatever the reason for such Indenture Event of Default and whether it shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court, or any order, rule or regulation of any administrative or governmental body), subject, however, to the right of the Owner Participant to cure such Indenture Event of Default pursuant to Section 12.03:

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(a) default in the payment of principal of, or Premium, if any, or interest on, any Certificate when such principal, Premium or interest becomes due and payable (whether upon redemption, upon maturity at otherwise) and continuance of such default for a period of 10 Business Days after the same shall become due; or

(b) default in a material respect in the performance, or breach, of any covenant or warranty of the Owner Trustee in this Indenture or in Section 15 of the Participation Agreement or default in a material respect in the performance, or breach, of any covenant or warranty of the Owner Participant in Section 15 of the Participation Agreement (other than a covenant or warranty the default in the performance or breach of which would be an Event of Default or which is elsewhere in this Section specifically dealt with) or breach in a material respect of any representation of the Owner Participant or the Owner Trustee in the Participation Agreement, and the Owner Trustee or the Owner Participant, as the case may be, shall not have diligently commenced to cure (in the case of a cure that cannot be effected by a payment of money or any breach of a representation) or shall not have cured (in the case of a cure which can be effected by a payment of money) such default or breach on or prior to the 30th day after there has been given, by registered or certified mail, a written notice specifying such default that such notice is a "Notice of Default" hereunder (i) by the Indenture Trustee to all of the Owner Participant, the Owner Trustee and the Lessee or (ii) by the Holders of at least 25% in principal amount of the Certificates Outstanding to all of the Owner Participant, the Owner Trustee, the Lessee and the Indenture Trustee, provided, that in the case of a cure that cannot be effected by the payment of money, the failure by the Owner Trustee or the Owner Participant, as the case may be, to cure such default or breach within 15 months after receipt of such notice shall constitute an immediate Indenture Event of Default; or

(c) an Event of Default (other than an Event of Default relating to the failure by the Lessee to pay any Supplemental Rent due and owing pursuant to the second sentence of Section 21 of the Lease) shall have occurred and be continuing; or

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(d) the entry of a decree or order by a court having jurisdiction for relief in respect of the Owner Trustee or the Owner Participant under the Federal Bankruptcy Code or any other applicable federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of or for the Owner Trustee or the Owner Participant or any substantial part of their respective property or ordering the winding up or liquidation of their respective affairs, and the continuance of any such decree or order unstayed and in effect for a period of 60 consecutive days or a petition shall be filed against the Owner Trustee or the Owner Participant under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect and shall not be dismissed within 60 days after such filing; or

(e) the commencement by the Owner Trustee or the Owner Participant of a voluntary case under the Federal Bankruptcy Code or any other applicable federal or state law, or the consent or acquiescence by it to the filing of any such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Owner Trustee or the Owner Participant or of any substantial part of the property of either of them, or the making by either them of an assignment for the benefit of creditors, or the admission by either of them in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Owner Trustee or the Owner Participant in furtherance of any such action.

SECTION 6.02. Remedies. (a) If an Indenture Event of Default shall have occurred and be continuing, then and in every such case, the Indenture Trustee may, and when required by the provisions of Article VII or Section 6.02(c) hereof, shall, exercise any or all of the rights and powers and pursue any and all of the remedies pursuant to this Article VI and, in the event such Indenture Event of Default is an Indenture Event of Default referred to in paragraph (c) of Section 6.01 hereof, but subject to the provisions of Section 12.03 hereof, exercise any and all of the remedies pursuant to Section 15 of the Lease and may take possession of all or any part of the properties covered or intended to be covered by the Lien and security interest created hereby or pursuant hereto and may exclude the Owner Participant, the Owner Trustee and the Lessee and all persons claiming under

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any of them wholly or partly therefrom. Without limiting any of the foregoing, it is understood and agreed that the Indenture Trustee may exercise any right of sale of the Units available to it, even though it shall not have taken possession of the Units and shall not have possession thereof at the time of such sale. Notwithstanding the foregoing, so long as no Indenture Event of Default other than an Event of Default has occurred and is continuing the Indenture Trustee shall not foreclose upon the Lien of this Indenture or otherwise exercise rights hereunder which would cause the Owner Trustee to lose its title in the Units with respect to such Indenture Event of Default that is an Event of Default for a period of 15 Business Days after the date on which the Owner Participant shall first have the right to instruct the Owner Trustee to purchase Certificates pursuant to Section 12.02(b) hereof in respect of such Indenture Event of Default, which period shall be extended to end on the third Business Day following the date, if any, on which the Owner Trustee, upon instruction from the Owner Participant irrevocably elects in writing by notice to the Indenture Trustee to purchase all of the Certificates Outstanding and demonstrates ability to so purchase, provided such election is made within the initial 15 Business Day period. It is further understood and agreed that if the Indenture Trustee shall proceed to foreclose the Lien of this Indenture or otherwise exercise rights hereunder which would cause the Owner Trustee to lose its title in the Units, the Indenture Trustee shall, to the extent that it is then entitled to do so hereunder and under the Lease, proceed (to the extent it has not already done so) to exercise one or more of the remedies with respect to the Units referred to in Section 15 of the Lease as it shall determine in its sole good faith discretion.

(b) If an Indenture Event of Default referred to in clause (d) or (e) of Section 6.01 hereof shall have occurred, or an Event of Default referred to in clause (e) or (f) of Section 14 of the Lease shall have occurred then and in every such case the unpaid principal of all Outstanding Certificates, together with interest accrued but unpaid thereon and all other amounts due thereunder and hereunder but without Premium, shall immediately and without further act become due and payable, without presentment, demand, protest or notice, all of which are hereby waived.

(c) If any Indenture Event of Default not described in the preceding paragraph (b) shall have occurred and be continuing, then and in every such case, the Indenture Trustee may on its own accord or at the direction of Holders of not less

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than 25% in aggregate principal amount of Certificates Outstanding, at any time, by written notice, or notices to the Owner Trustee and the Lessee, declare the principal of all the Certificates to be due and payable, whereupon the unpaid principal of all Outstanding Certificates, together with accrued but unpaid interest thereon and all other amounts due thereunder, shall immediately become due and payable without presentment, demand, protest or other notice, all of which are hereby waived. At any time after such declaration and prior to the sale or disposition of the Indenture Estate, however, the Holders of not less than 50% in aggregate principal amount of Outstanding Certificates, by notice to the Indenture Trustee, the Owner Trustee and the Lessee, may rescind such declaration, whether made by the Indenture Trustee on its own accord or as directed, if (x) there has been paid or deposited with the Indenture Trustee a sum sufficient to pay all overdue installments of interest on all Certificates (together, to the extent permitted by law, with interest on such overdue installments of interest), the principal on any Certificates that has become due otherwise than by such declaration of acceleration, all sums paid or advanced by the Indenture Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Indenture Trustee, its agents and counsel, and (y) all Indenture Defaults and Indenture Events of Default (other than the nonpayment of principal that has become due solely because of such declaration of acceleration) have been either cured or waived as provided in Section 6.12. No such rescission shall affect any subsequent default or impair any right consequent thereon.

(d) If an Indenture Event of Default has occurred, has not been waived and is continuing, the Indenture Trustee may in its discretion proceed to protect and enforce its rights and rights of the Holders by such appropriate judicial proceedings as the Indenture Trustee shall deem most effectual to protect and enforce any of such rights, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture or to enforce any other legal or equitable right vested in the Indenture Trustee or the Holders by this Indenture or by law; provided, that any sale of any portion of the Indenture Estate shall be done in accordance with Section 6.03.

SECTION 6.03. Return of Units, Etc. Subject to Section 6.02: (a) If an Indenture Event of Default shall have

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occurred and be continuing, at the request of the Indenture Trustee, the Owner Trustee shall promptly execute and deliver to the Indenture Trustee such instruments of title and other documents as the Indenture Trustee may deem necessary or advisable to enable the Indenture Trustee or an agent or representative designated by the Indenture Trustee, at such time or times and place or places as the Indenture Trustee may specify, to obtain possession of all or any part of the Indenture Estate to which the Indenture Trustee shall at the time be entitled hereunder. If the Owner Trustee shall for any reason fail to execute and deliver such instruments and documents after such request by the Indenture Trustee, the Indenture Trustee may (i) obtain a judgment conferring on the Indenture Trustee the right to immediate possession and requiring the Owner Trustee to execute and deliver such instruments and documents to the Indenture Trustee, to the entry of which judgment the Owner Trustee hereby specifically consents, and (ii) pursue all or part of the Indenture Estate wherever such Indenture Estate may be found and may enter any of the premises of the Lessee and search for and take possession of and remove the Indenture Estate. All expenses of obtaining such judgment or of pursuing, searching for and taking such property (including, without limitation, reasonable attorney's fees and expenses) shall, until paid, be secured by the Lien of this Indenture.

(b) Upon every such taking of possession, the Indenture Trustee may, from time to time, at the expense of the Indenture Estate, make all such expenditures for maintenance, insurance, repairs, replacements, alterations, additions and improvements to and of the Indenture Estate, as it may deem proper. In each such case, the Indenture Trustee shall have the right to maintain, use, operate, store, lease, control or manage the Indenture Estate and to carry on the business and, without limiting any express provisions of Section 12.01 hereof, to exercise all rights and powers of the Owner Participant and the Owner Trustee relating to the Indenture Estate, as the Indenture Trustee shall deem best, including the right to enter into any and all such agreements with respect to the maintenance, insurance, use, operation, storage, leasing, control, management or disposition of the Indenture Estate or any part thereof as the Indenture Trustee may determine; and, except for Excepted Payments, the Indenture Trustee shall be entitled to collect and receive all cash held by, or required to be deposited with, the Indenture Trustee hereunder. Such rents (including Rent), revenues, issues, income, products and profits shall be applied to pay the expenses of the use, operation, storage, leasing,

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control, management or disposition of the Indenture Estate and of conducting the business thereof, and of all maintenance, repairs, replacements, alterations, additions and improvements (including the employment of engineers and accountants to examine, inspect and make reports upon the properties and books and records of the Owner Trustee), and all other payments which the Indenture Trustee may be required or authorized to make under any provision of this Indenture, as well as just and reasonable compensation for the services of the Indenture Trustee, and of all other persons properly engaged and employed by the Indenture Trustee.

(c) If an Indenture Event of Default shall have occurred and be continuing and the Indenture Trustee shall be entitled to exercise remedies hereunder, and subject to Article XII hereof, the Indenture Trustee, either with or without taking possession, and either before or after taking possession, and without instituting any legal proceedings whatsoever, may sell, assign, transfer and deliver the whole or, from time to time, to the extent permitted by law, any part of the Indenture Estate, or any part thereof, or interest therein, at public auction, with or without demand, advertisement or notice, except as expressly provided for below in this Section 6.03(c), for cash or credit or for other property, for immediate or future delivery, and for such price or prices and on such terms as the Indenture Trustee in its sole discretion may determine; provided, that any such action shall be at the time lawful and that all mandatory legal requirements shall be complied with. The Indenture Trustee shall give the Owner Trustee, the Owner Participant and the Lessee at least 20 days' notice of any such public sale. Such notice shall state the time and place fixed for such sale. Any such public sale shall be held at such time or times within ordinary business hours as the Indenture Trustee shall fix in the notice of such sale. At any such sale, the Indenture Estate may be sold in one lot as an entirety or in separate lots. The Indenture Trustee shall not be obligated to make any sale pursuant to such notice. The Indenture Trustee may, without notice or publication, adjourn any public sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for such sale, and any such sale may be made at any time or place to which the same may be so adjourned without further notice or publication. The Indenture Trustee may exercise such right of sale without possession or production of the Certificates or proof of ownership thereof, and as representative of the Holders may exercise such right without notice to the Holders and without including the Holders as parties to any suit or proceedings relating to the foreclosure of

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any part of the Indenture Estate. The Owner Trustee shall execute any and all such bills of sale, assignments and other documents, and perform and do all other acts and things requested by the Indenture Trustee in order to permit consummation of any sale of the Indenture Estate in accordance with this Section 6.03(c) and to effectuate the transfer or conveyance referred to in the first sentence of this Section 6.03(c).

(d) To the extent permitted by Applicable Law, the Indenture Trustee or any Holder may be a purchaser of the Indenture Estate or any part thereof or any interest therein at any sale thereof, whether pursuant to foreclosure or power of sale or otherwise. The Indenture Trustee may apply against the purchase price therefor the amount then due hereunder or under any of the Certificates secured hereby and any Holder may apply against the purchase price therefor the amount then due to it hereunder, under any other Operative Document or under the Certificates held by such Holder to the extent of such portion of the purchase price as it would have received had it been entitled to share any distribution thereof. The Indenture Trustee or any Holder or nominee thereof shall, upon any such purchase, acquire good title to the property so purchased, free of the Lien of this Indenture and, to the extent permitted by Applicable Law, free of all rights of redemption of the Owner Trustee or the Owner Participant in respect of the property so purchased.

(e) Subject to Article XII hereof, the Owner Trustee hereby irrevocably constitutes and appoints the Indenture Trustee the true and lawful attorney-in-fact of the Owner Trustee in its name and stead and on its behalf, which appointment is coupled with an interest, for the purpose of effectuating any sale, assignment, transfer or delivery for the enforcement of the Lien of this Indenture, whether pursuant to foreclosure or power of sale or otherwise, to execute and deliver all such bills of sale, assignments and other instruments as the Indenture Trustee may consider necessary or appropriate, with full power of substitution, and the Owner Trustee hereby ratifies and confirms all that such attorney or any substitute shall lawfully do by virtue hereof. Nevertheless, if so requested by the Indenture Trustee or any purchaser, the Owner Trustee shall ratify and confirm any such sale, assignment, transfer or delivery, by executing and delivering to the Indenture Trustee or such purchaser all bills of sale, assignments, releases and other proper instruments to effect such ratification and confirmation as may be designated in any such request.

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(f) The Indenture Trustee shall, as a matter of right, be entitled to the appointment of a receiver (who may be the Indenture Trustee or any successor or nominee) for all or any part of the Indenture Estate, whether such receivership be incidental to a proposed sale of the Indenture Estate or the taking of possession thereof or otherwise, and the Owner Trustee hereby consents to the appointment of such receiver and will not oppose any such appointment. Any receiver appointed for all or any part of the Indenture Estate shall be entitled to exercise all of the rights and powers of the Indenture Trustee with respect to the Indenture Estate.

(g) Any sale of the Indenture Estate or any part thereof or any interest therein, whether pursuant to foreclosure or power of sale or otherwise hereunder, shall be a perpetual bar against the Owner Trustee after the expiration of the period, if any, during which the Owner Trustee shall have the benefit of redemption laws which may not be waived pursuant to Section 6.14 hereof.

SECTION 6.04. Right of Indenture Trustee to Judgment; Proofs of Claim. Subject to Section 1.09, if the Owner Trustee shall fail to pay, when and as the same shall become due and payable, any amount payable hereunder or under the Certificates, the Indenture 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 sums so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Owner Trustee or other obligor upon the Certificates and collect in the manner provided by law out of the property of the Owner Trustee or other obligor upon the Certificates, wherever situated, the moneys adjudged or decreed to be payable; provided, that any sale of any portion of the Indenture Estate shall be done in accordance with Section 6.03(c).

In case there shall be pending proceedings relative to the Owner Trustee under Title 11 of the United States Code or any other applicable Federal or state bankruptcy, insolvency or other similar law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Owner Trustee or its property, or in case of any other comparable judicial proceedings relative to the Owner Trustee upon the Certificates, or to the property of the Owner Trustee, the

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Indenture Trustee, irrespective of whether the principal of the Certificates shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Indenture Trustee shall have made any demand pursuant to the provisions of this Section, shall be entitled and empowered, by intervention in such proceedings or otherwise:

(a) to file and prove a claim or claims for the whole amount of principal and interest and premium, if any, owing and unpaid in respect of the Certificates, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Indenture Trustee (including any claim for reasonable compensation to and expenses of the Indenture Trustee and each predecessor Indenture Trustee, and their respective agents, attorneys and counsel, and for reimbursement of the Indenture Trustee and each preceding Indenture Trustee) and of the Holders allowed in any judicial proceedings relative to the Owner Trustee or to the property of the Owner Trustee,

(b) unless prohibited by applicable law and regulations, to vote on behalf of the Holders in any election of a trustee or a standby trustee in arrangement, reorganization, liquidation or other bankruptcy or insolvency proceedings or Person performing similar functions in comparable proceedings, and

(c) 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 and of the Indenture Trustee on their behalf;

and any trustee, receiver, or liquidator, custodian or other similar official is hereby authorized by each of the Holders to make payments to the Indenture Trustee, and, in the event that the Indenture Trustee shall consent to the making of payments directly to the Holders, to pay to the Indenture Trustee such amounts as shall be sufficient to cover reasonable compensation to the Indenture Trustee, each predecessor Indenture Trustee and their respective agents, attorneys and counsel, and all other expenses and liabilities incurred, and all advances made, by the Indenture Trustee and each predecessor Indenture Trustee.

Nothing contained herein shall be deemed to authorize the Indenture Trustee to authorize or consent to or vote for or accept or adopt on behalf of any Holder any plan of

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reorganization, arrangement, adjustment or composition affecting the Certificates or the rights of any Holder thereof, or to authorize the Indenture Trustee to vote in respect of the claim of any Holder in any such proceeding except, as aforesaid, to vote for the election of a trustee in bankruptcy or similar person.

All rights of action and of asserting claims under this Indenture, or under any of the Certificates, may be prosecuted and enforced by the Indenture Trustee without the possession of any of the Certificates or the production thereof in any trial or other proceedings relative thereto, and any such action or proceedings instituted by the Indenture Trustee shall be brought in its own name and as trustee of an express trust, and any recovery of judgment, subject to the payment of the expenses, disbursements and compensation of the Indenture Trustee, each predecessor Indenture Trustee and their respective agents and attorneys, shall be for the ratable benefit of the Holders.

In any proceedings brought by the Indenture Trustee (and also any proceedings involving the interpretation of any provision of this Indenture to which the Indenture Trustee shall be a party) the Indenture Trustee shall be held to represent all the Holders of the Certificates, and it shall not be necessary to make any Holders parties to any such proceedings.

SECTION 6.05. Control by Holders. Subject to Section 7.04 hereof, the Holders of a majority in principal amount of the Certificates Outstanding shall have the right, during the continuance of an Indenture Event of Default,

(a) to require the Indenture Trustee to proceed to enforce this Indenture, either by judicial proceedings for the enforcement of the payment of the Certificates and the foreclosure of this Indenture, the sale of the Indenture Estate or otherwise or, at the election of the Indenture Trustee, by the exercise of the power of entry and/or sale hereby conferred; and

(b) to direct the time, method and place of conducting any proceeding for any remedy available to the Indenture Trustee, or exercising any trust or power conferred upon the Indenture Trustee hereunder; provided that

(1) such direction shall not be in conflict with any rule of law or with this Indenture, and

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(2) the Indenture Trustee may take any other action deemed proper by the Indenture Trustee which is not inconsistent with such direction.

The Lessee or the Owner Trustee may set a record date for purposes of determining the identity of Holders entitled to vote or consent to any action by vote or consent authorized or permitted by this Section 6.05. Such record date shall be the later of 30 days prior to the first solicitation of such consent or the date of the most recent list of Holders furnished to the Indenture Trustee pursuant to Section 3.01 prior to such solicitation.

SECTION 6.06. General Limitations on Duties of Indenture Trustee. The Indenture Trustee shall not have any duty or obligation to manage, control, use, sell, dispose of or otherwise deal with the Units or any other part of the Indenture Estate, or otherwise to take or refrain from taking any action under, or in connection with, the Lease except as expressly provided by the terms of this Indenture or as expressly provided in directions of the Holders under Section 6.05, and no implied duties or obligations shall be read into this Indenture against the Indenture Trustee.

SECTION 6.07. General Limitations on Powers of Indenture Trustee. The Indenture Trustee agrees that it will not manage, control, use, sell, dispose of or otherwise deal with the Units or any other part of the Indenture Estate except (a) as required or permitted by the terms of the Lease and the Participation Agreement, (b) in accordance with the powers granted to, or the authority conferred upon, the Indenture Trustee pursuant to this Indenture, (c) as provided in directions of the Holders under Section 6.05 or (d) in connection with the exercise of any rights constituting part of the Indenture Estate, as provided in directions of the Holders of a majority in principal amount of the Certificates Outstanding (except as otherwise expressly provided herein).

SECTION 6.08. Possession of Certificates by Indenture Trustee Unnecessary for Enforcement. All rights of action and claims under this Indenture or any of the Certificates may be prosecuted and enforced by the Indenture Trustee without the possession of any of the Certificates or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Indenture Trustee shall be brought in its own

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name and as trustee of an express trust, and any recovery of judgment shall be distributed as provided in Section 10.03.

SECTION 6.09. Limitations on Suits by Holders. No Holder of any Certificate shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless:

(a) such Holder has previously given written notice to the Indenture Trustee of a continuing Indenture Event of Default;

(b) the Holders of not less than 25% in aggregate principal amount of the Certificates Outstanding shall have made written request to the Indenture Trustee to institute proceedings in respect of such Indenture Event of Default in its own name as Indenture Trustee hereunder;

(c) such Holder or Holders shall have offered to the Indenture Trustee indemnity satisfactory to the Indenture Trustee against the costs, expenses and liabilities to be incurred in compliance with such request;

(d) the Indenture Trustee for 60 days after its receipt of such notice, request and offer of indemnity shall have failed to institute any such proceeding; and

(e) no direction inconsistent with such written request shall have been given to the Indenture Trustee during such 60-day period by the Holders of a majority in aggregate principal amount of the Certificates Outstanding;

it being understood and intended that no one or more of the Holders shall have any right in any manner whatever by virtue of any provision of this Indenture to affect, disturb or prejudice the rights of any other Holder, or to obtain or to seek to obtain priority or preference over any other Holder or to enforce any right under this Indenture, except in the manner herein provided and for the ratable benefit of all the Holders.

SECTION 6.10. Unconditional Right of Holder to Receive Principal, Premium and Interest. Notwithstanding any other provision in this Indenture, the Holder of any Certificate shall have the right, which is absolute and unconditional, to receive payment of the principal of (and Premium, if any) and interest on

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such Certificate on the respective due dates thereof and to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the consent of such Holder.

SECTION 6.11. Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Indenture Trustee or to the Holders of Certificates is intended to be exclusive of any other right or remedy. Every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law, in equity, by statute, or otherwise and may be exercised from time to time and as often and in such order as may be deemed expedient by the Indenture Trustee or the Holders.

SECTION 6.12. Waiver. (a) Before any foreclosure or sale of any of the Indenture Estate has been made under this Article or any judgment or decree for payment of money due has been obtained by the Indenture Trustee as provided in this Article, the Holders of not less than a majority in aggregate principal amount of the Certificates Outstanding may, by Act of such Holders delivered to the Indenture Trustee and the Owner Trustee, on behalf of the Holders of all the Certificates, waive any past Indenture Default or Indenture Event of Default hereunder and its consequences, except, in the absence of an Act of Holders of all the Certificates, an Indenture Event of Default or Indenture Default consisting of,

(1) default in the payment of the principal of, or Premium, if any, or interest on, any Certificate, or

(2) default in respect of a covenant or provision hereof which under Article VIII cannot be modified or amended without the consent of the Holders of all Certificates Outstanding affected.

Upon any such waiver, such default shall cease to exist, and any Indenture Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

(b) No delay or omission of the Indenture Trustee or of any Holder to exercise any right or remedy accruing upon any Indenture Event of Default shall impair any such right or remedy or constitute a waiver of any such Indenture Event of Default or an acquiescence therein. Every right and remedy given by this

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Article VI or by law to the Indenture Trustee or the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Indenture Trustee or by the Holders, as the case may be.

SECTION 6.13. Discontinuance of Proceedings. In case the Indenture Trustee or any Holder shall have instituted any proceeding to enforce any right, power or remedy under this Indenture by foreclosure, entry or otherwise, and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Indenture Trustee or such Holder, then and in every such case the Owner Trustee, the Indenture Trustee, the Holders and the Lessee shall, subject to any determination in such proceeding, be restored to their former positions and rights hereunder with respect to the Indenture Estate, and all rights, remedies and powers of the Indenture Trustee and the Holders shall continue as if no such proceeding had been instituted.

SECTION 6.14. Waiver of Appraisement, Etc.; Laws. The Owner Trustee covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any appraisement, valuation, stay, extension or redemption law wherever enacted, now or at any time hereafter in force, in order to prevent or hinder the enforcement of this Indenture or the execution of any right, remedy or power granted herein to the Indenture Trustee, or the absolute sale of the Indenture Estate, or any part thereof, or the possession thereof by any purchaser at any sale under this Article VI; and the Owner Trustee for itself and all who may claim under it, so far as it or any of them now or hereafter lawfully may, hereby waives the benefit of all such laws. The Owner Trustee for itself and all who may claim under it waives, to the extent that it lawfully may, all right to have the property in the Indenture Estate marshalled upon any foreclosure hereof, and agrees that any court having jurisdiction to foreclose this Indenture may order the sale of the Indenture Estate as an entirety.

If any law referred to in this Section 6.14 and now in force, of which the Owner Trustee or its successors might take advantage despite this Section 6.14, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the application of this Section 6.14.

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SECTION 6.15. Undertaking for Costs. All parties to this Indenture agree, and each Holder of any Certificate by his acceptance thereof shall be deemed to have agreed, that in any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Indenture Trustee for any action taken or omitted by it as Indenture Trustee, a court in its discretion may require the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section does not apply to a suit instituted by the Indenture Trustee, a suit instituted by a Holder for the enforcement of the payment of principal of, Premium, if any, or interest on any Certificate owned by such Holder, on or after the respective due dates expressed in such Certificate, or a suit by a Holder or Holders of more than 10% in aggregate principal amount of Outstanding Certificates.

## ARTICLE VII

### The Indenture Trustee

SECTION 7.01. Acceptance of Trusts. The Indenture Trustee hereby accepts the trust imposed upon it by this Indenture, covenants and agrees to perform the same as herein expressed and agrees to receive and disburse all moneys constituting part of the Indenture Estate in accordance with the terms hereof.

SECTION 7.02. Certain Duties and Responsibilities of Indenture Trustee. (a) Except during the continuation of an Indenture Event of Default,

(i) the Indenture Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Indenture Trustee; and

(ii) in the absence of bad faith on its part, the Indenture Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein and the genuineness of all such writings, upon

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certificates or opinions furnished to the Indenture Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provisions hereof are specifically required to be furnished to the Indenture Trustee, the Indenture Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture.

(b) In case an Indenture Event of Default has occurred and is continuing, the Indenture Trustee shall exercise such of the rights and powers vested in it by this Indenture as it shall be directed in writing from time to time by the Holders of a majority in principal amount of the Certificates Outstanding and in the absence of such direction the Indenture Trustee may take (or may refrain from taking), in its sole discretion, such action as it may deem to be in the interest of the Holders, and upon exercising its rights and powers hereunder the Indenture Trustee shall use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

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

(i) this subsection (c) shall not be construed to limit the provisions of subsection (a) of this Section 7.02;

(ii) the Indenture Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Indenture Trustee, unless it shall be proved that the Indenture Trustee was negligent in ascertaining the pertinent facts;

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

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(iv) no provision of this Indenture shall require the Indenture Trustee (A) to do anything contrary to law or to the provisions of any Operative Document to which it is a party, or (B) to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct of, or affecting the liability of or affording protection to, the Indenture Trustee shall be subject to the provisions of this Section 7.02.

SECTION 7.03. Notice of Defaults. As promptly as possible after a Responsible Officer in the Corporate Trust Department of the Indenture Trustee obtains actual knowledge of any Indenture Default or Indenture Event of Default, the Indenture Trustee shall transmit by mail notice of such Indenture Default or Indenture Event of Default to all Holders, as their names and addresses appear in the Certificate Register, and to the Owner Trustee and the Owner Participant unless such Indenture Default or Indenture Event of Default shall have been cured or waived, all in accordance with the requirements of section 313(c) and section 315(b) of the TIA. In the event the Indenture Trustee shall have transmitted notice of an Indenture Default or Indenture Event of Default, and such Indenture Default or Indenture Event of Default is subsequently cured or waived, the Indenture Trustee shall give notice to such effect to the Holders, the Owner Trustee and the Owner Participant in the manner hereinabove described. The Indenture Trustee shall not be deemed to have knowledge of any Default or Event of Default under the Lease, Indenture Default, Indenture Event of Default, fact or circumstance absent actual knowledge thereof by a Responsible Officer in the Corporate Trust Department of the Indenture Trustee. The Indenture Trustee shall not be obligated to give the Owner Trustee or the Owner Participant, as the case may be, notice of an Indenture Default or Indenture Event of Default if the Indenture Trustee obtained knowledge of such Indenture Default or Indenture Event of Default through a notice transmitted to it by the Owner Trustee or the Owner Participant.

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SECTION 7.04. Certain Rights of Indenture Trustee.  
Except as otherwise provided in Section 7.02:

(a) the Indenture Trustee may rely upon and shall be protected in acting or refraining from acting in reliance upon any resolution, statement, instrument, opinion, report, notice, request, direction, consent, order, certificate or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper person or persons;

(b) any request or direction of the Owner Trustee mentioned herein (other than an Owner Trustee Request) shall be sufficiently evidenced by a certificate or request signed by a Responsible Officer of the Owner Trustee;

(c) whenever in the administration of this Indenture the Indenture Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, such matter (unless other evidence be herein specifically prescribed) may be deemed to be conclusively proved and established, in the absence of bad faith on the part of the Indenture Trustee, by a certificate signed by a Responsible Officer of the Owner Trustee, and delivered to the Indenture Trustee;

(d) the Indenture Trustee may consult with counsel, and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(e) the Indenture Trustee shall be under no obligation to undertake any proceedings under this Indenture, or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the enforcement of any rights and powers hereunder, until it shall be offered an indemnity reasonably satisfactory to it against any and all costs, expenses and liabilities, including, but not limited to, legal fees and expenses, which it may incur in connection therewith.

(f) the Indenture Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion,

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report, notice, request, direction, consent, order, Certificate or other paper or document, but the Indenture Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit;

(g) the Indenture Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Indenture Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder; and

(g) the Indenture Trustee's responsibility to make payments under this Indenture and the Certificates shall be limited to payment from funds received or held by the Indenture Trustee in its capacity as Indenture Trustee.

SECTION 7.05. Limitation on Responsibility of Indenture Trustee. The recitals contained herein and in the Certificates, except the certificates of authentication, shall be taken as the statements of the Owner Trustee, and the Indenture Trustee assumes no responsibility for their correctness. The Indenture Trustee makes no representation as to the value or condition of the Indenture Estate or any part thereof, as to the title of the Owner Trustee thereto or as to the security afforded thereby or hereby, or as to the validity or genuineness of any securities at any time pledged or deposited with the Indenture Trustee hereunder, or as to the validity or sufficiency of this Indenture, the Certificates, the Lease, the Trust Agreement or any other of the Operative Documents. The Indenture Trustee shall not be responsible for the use or application by the Owner Trustee of the Certificates or the proceeds thereof or the application of any moneys paid to the Owner Trustee or others in accordance with this Indenture.

Subject to Section 7.02, the Indenture Trustee (except in accordance with Section 6.03 and as required pursuant to Section 6.05 and without limiting the generality of Sections 6.07 and 9.02) shall have no duty (a) to see to any insurance on the Units or to effect or maintain any such insurance, whether or not the Lessee shall be in default with respect thereto, (b) to see to the payment or discharge of any tax, assessment or other Lien owing with respect to, assessed or levied against any of the Units, (c) to inspect the Units at any time or ascertain or inquire as to the performance or observance of any of the covenants of the Lessee under the Lease with respect to the

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Units, or (d) to confirm, verify or inquire into the failure to receive any financial statements of the Lessee. Notwithstanding the foregoing, the Indenture Trustee will furnish to the Owner Participant and to the Owner Trustee, promptly upon receipt thereof, duplicates or copies of all reports, notices, requests, demands, certificates and other instruments furnished to the Indenture Trustee under the Lease and this Indenture unless it shall ascertain that such Person shall have already received a copy of the same or shall be entitled to receive the same directly from the Lessee under the Lease.

THE INDENTURE TRUSTEE MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE TITLE, VALUE, CONDITION, DESIGN, OPERATION OR MERCHANTABILITY OF ANY UNIT OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP OF ANY UNIT OR AS TO THE FITNESS OF ANY UNIT FOR ANY PARTICULAR USE OR AS TO THE ELIGIBILITY OF ANY UNIT FOR ANY PARTICULAR TRADE, OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT; AND UNDER NO CIRCUMSTANCES WHATSOEVER SHALL THE INDENTURE TRUSTEE BE LIABLE OR RESPONSIBLE TO THE LESSEE, TO THE OWNER TRUSTEE, TO THE OWNER PARTICIPANT, TO ANY HOLDER OR TO ANY PERSON FOR ANY CONSEQUENTIAL DAMAGES.

SECTION 7.06. Possession of Original Executed Lease.  
The Indenture Trustee shall at all times keep possession of an original executed counterparts of the Lease, the Lease and Indenture Supplement and all supplements or amendments to the Lease.

SECTION 7.07. Indenture Trustee May Hold Certificates.  
The Indenture Trustee may become an owner or pledgee of Certificates and may deal with the other parties to the Participation Agreement and the Lease and the parties to the transactions contemplated thereby, as if it were not the Indenture Trustee.

SECTION 7.08. Funds May Be Held by Indenture Trustee.  
Any moneys held by the Indenture Trustee hereunder as part of the Indenture Estate may, until paid out by the Indenture Trustee as herein provided, be carried by the Indenture Trustee on deposit with itself (if such deposit constitutes a Permitted Investment), and the Indenture Trustee shall not have any liability for interest upon any such moneys except as otherwise expressly set forth in Section 10.10 hereof.

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SECTION 7.09. Compensation and Reimbursement of Indenture Trustee. It is understood that the Indenture Trustee will receive compensation and reimbursement of expenses as provided in Section 17 of the Participation Agreement.

SECTION 7.10. Corporate Trustee Required; Eligibility. There shall at all times be an Indenture Trustee hereunder which shall be a corporation organized and doing business under the laws of the United States of America or of any State, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$100,000,000 (or the obligations and liabilities of which are irrevocably and unconditionally guaranteed by an affiliated company having a combined capital and surplus of at least \$100,000,000), subject to supervision or examination by Federal or state authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section 7.10, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Indenture Trustee shall cease to be or have reason to believe that it shall cease to be eligible in accordance with the provisions of this Section 7.10, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

SECTION 7.11. Resignation and Removal; Appointment of Successor. (a) No resignation or removal of the Indenture Trustee and no appointment of a successor Indenture Trustee pursuant to this Article VII shall become effective until the acceptance of appointment by the successor Indenture Trustee under Section 7.12 hereof.

(b) The Indenture Trustee may resign at any time by giving written notice thereof to the Owner Trustee. If an instrument of acceptance by a successor Indenture Trustee shall not have been delivered to the Owner Trustee and the Indenture Trustee within 30 days after the giving of such notice of resignation, the resigning Indenture Trustee may petition any court of competent jurisdiction for the appointment of a successor Indenture Trustee.

(c) The Indenture Trustee may be removed at any time by Act of the Holders of a majority in aggregate principal amount

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of Certificates Outstanding, delivered to the Indenture Trustee and to the Owner Trustee.

(d) If at any time:

(i) the Indenture Trustee shall cease to be eligible under Section 7.10 hereof and shall fail to resign after written request therefor by the Owner Trustee, acting after consultation with the Lessee, or by any Holder, or

(ii) the Indenture Trustee shall become incapable of acting or shall be adjudged bankrupt or insolvent, or a receiver of the Indenture Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Indenture Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (A) the Owner Trustee, acting after consultation with the Lessee, may remove the Indenture Trustee if permitted by law or (B) any Holder who has been a bona fide Holder for at least six months may, on behalf of itself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Indenture Trustee and the appointment of a successor Indenture Trustee.

(e) If the Indenture Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of the Indenture Trustee for any cause, the Owner Trustee, acting after consultation with the Lessee, shall promptly appoint a successor Indenture Trustee. If, within one year after such resignation or removal or the occurrence of such vacancy or incapability, a successor Indenture Trustee shall be appointed by Act of the Holders of a majority in principal amount of Certificates Outstanding, delivered to the Owner Trustee and the retiring Indenture Trustee, the successor Indenture Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Indenture Trustee and supersede the successor Indenture Trustee appointed by the Owner Trustee. If no successor Indenture Trustee shall have been so appointed by the Owner Trustee or the Holders and accepted appointment in the manner hereinafter provided, any Holder who has been a bona fide Holder for at least six months may, on behalf of itself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Indenture Trustee.

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(f) The Indenture Trustee shall give notice of each resignation and each removal of the Indenture Trustee and each appointment of a successor Indenture Trustee by mailing written notice of such event to all Holders. Each notice shall include the name of the successor Indenture Trustee and the address of its office for purposes of Section 1.03 hereof.

SECTION 7.12. Acceptance of Appointment by Successor. Every successor Indenture Trustee appointed hereunder shall execute, acknowledge and deliver to the Owner Trustee and the retiring Indenture Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Indenture Trustee shall become effective and such successor Indenture Trustee, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers, trusts and duties of the retiring Indenture Trustee; but, on request of the Owner Trustee, the Lessee or the successor Indenture Trustee, such retiring Indenture Trustee shall upon payment of all amounts owed to it under this Indenture (or the making of due provision satisfactory to it therefor) execute and deliver an instrument conveying and transferring to such successor Indenture Trustee all the estates, properties, rights, powers and trusts of the retiring Indenture Trustee hereunder, and shall duly assign, transfer and deliver to such successor Indenture Trustee all property and money held by such retiring Indenture Trustee hereunder. Upon request of any such successor Indenture Trustee, such retiring Indenture Trustee and the Owner Trustee shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Indenture Trustee all such estates, properties, rights, powers and trusts.

No successor Indenture Trustee shall accept its appointment unless at the time of such acceptance such Indenture Trustee shall be eligible under this Article.

SECTION 7.13. Merger, Conversion, Consolidation or Succession to Business. Any corporation into which the Indenture Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Indenture Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Indenture Trustee, shall be the successor to the Indenture Trustee hereunder, provided such corporation shall be otherwise eligible under this

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Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto.

SECTION 7.14. Appointment of Co-Indenture Trustees and Separate Indenture Trustees. Whenever the Indenture Trustee shall deem it necessary or prudent in order to conform to any law of any jurisdiction in which all or any part of the Indenture Estate shall be situated, or the Indenture Trustee shall be advised by counsel, satisfactory to it, that it is so necessary or prudent in the interest of the Holders or in the event that the Indenture Trustee shall have been requested to do so by the Holders of a majority in aggregate principal amount of Certificates Outstanding, the Indenture Trustee and the Owner Trustee shall execute and deliver a supplemental indenture hereto and all other instruments and agreements necessary or proper to constitute another bank or trust company, or one or more Persons approved by the Indenture Trustee and the Owner Trustee, either to act as separate indenture trustee or separate indenture trustees of all or any part of the Indenture Estate, jointly with the Indenture Trustee, or to act as co-indenture trustee or co-indenture trustees of all or any part of the Indenture Estate, in any such case with such powers as may be provided in such indenture supplemental hereto, and to vest in such bank, trust company or Person as such co-indenture trustee or separate indenture trustee, as the case may be, any property, title, right or power of the Indenture Trustee deemed necessary or advisable by the Indenture Trustee, subject to the remaining provisions of this Section 7.14. In the event the Owner Trustee shall not have joined in the execution of such indenture supplemental hereto within 10 days after the receipt of a written request from the Indenture Trustee so to do, or in case an Indenture Event of Default shall occur and be continuing, the Indenture Trustee may act under the foregoing provisions of this Section 7.14 without the concurrence of the Owner Trustee; and the Owner Trustee hereby appoints the Indenture Trustee its attorney-in-fact to act for it under the foregoing provisions of this Section 7.14 in either of such contingencies. The Indenture Trustee may execute, deliver and perform any deed, conveyance, assignment or other instrument in writing as may be required by any co-indenture trustee or separate indenture trustee for more fully and certainly vesting in and confirming to it or him any property, title, right or powers which by the terms of such indenture supplemental hereto are expressed to be conveyed or conferred to or upon such co-indenture trustee or separate indenture trustee, and the Owner Trustee shall, upon the Indenture Trustee's request, join therein and execute, acknowledge and deliver the

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same; and the Owner Trustee hereby makes, constitutes and appoints the Indenture Trustee its agent and attorney-in-fact for it and in its name, place and stead to execute, acknowledge and deliver any such deed, conveyance, assignment or other instrument in the event that the Owner Trustee shall not execute and deliver the same within ten days after receipt by it of such request so to do.

Every co-indenture trustee and separate indenture trustee hereunder shall, to the extent permitted by law, be appointed and act, and the Indenture Trustee shall act, subject to the following provisions and conditions:

(1) the Certificates shall be authenticated by the Indenture Trustee and all powers, duties, obligations and rights conferred upon the Indenture Trustee in respect of the receipt, custody, investment and payment of moneys shall be exercised solely by the Indenture Trustee;

(2) all other rights, powers, duties and obligations conferred or imposed upon the Indenture Trustee shall be conferred or imposed upon and exercised or performed by the Indenture Trustee and such co-indenture trustee or co-indenture trustees and separate indenture trustee or separate indenture trustees jointly, except to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed, the Indenture Trustee shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties and obligations (including the holding of title to the Indenture Estate in any such jurisdiction) shall be exercised and performed by such co-indenture trustee or co-indenture trustees or separate indenture trustee or separate indenture trustees;

(3) no power hereby given to, or with respect to which it is hereby provided may be exercised by, any such co-indenture trustee or separate indenture trustee shall be exercised hereunder by such co-indenture trustee or separate indenture trustee except jointly with, or with the consent of, the Indenture Trustee, anything herein to the contrary notwithstanding; and

(4) no indenture trustee hereunder (including the Indenture Trustee) shall be personally liable by reason of

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any act or omission of any other indenture trustee hereunder.

If at any time the Indenture Trustee shall deem it no longer necessary or prudent in order to conform to any such law or shall be advised by such counsel, satisfactory to it, that it is no longer so necessary or prudent in the interest of the Holders or in the event that the Indenture Trustee shall have been requested to do so in writing by the Holders of a majority in aggregate principal amount of Certificates Outstanding, the Indenture Trustee and the Owner Trustee shall execute and deliver an indenture supplemental hereto and all other instruments and agreement necessary or proper to remove any co-indenture trustee or separate indenture trustee. In the event that the Owner Trustee shall not have joined in the execution of such indenture supplemental hereto, instruments and agreements, the Indenture Trustee may act on behalf of the Owner Trustee to the same extent provided above.

Any co-indenture trustee or separate indenture trustee may at any time by an instrument in writing constitute the Indenture Trustee its agent or attorney-in-fact, with full power and authority, to the extent which may be authorized by law, to do all acts and things and exercise all discretions which it is authorized or permitted to do or exercise, for and on its behalf and in its name. In case any such co-indenture trustee or separate indenture trustee shall die, become incapable of acting, resign or be removed, all the assets, property, rights, powers, trusts, duties and obligations of such co-indenture trustee or separate indenture trustee, as the case may be, so far as permitted by law, shall vest in and be exercised by the Indenture Trustee, without the appointment of a new successor to such co-indenture trustee or separate indenture trustee unless and until a successor is appointed in the manner herein before provided.

Any request, approval or consent in writing by the Indenture Trustee to any co-indenture trustee or separate indenture trustee shall be sufficient to warrant to such co-indenture trustee or separate indenture trustee, as the case may be, to take such action as may be so requested, approved or consented to.

Each co-indenture trustee and separate indenture trustee appointed pursuant to this Section shall be subject to, and shall have the benefit of, Article VII hereof; provided, however, no resignation of an additional or separate indenture

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trustee pursuant to this Section 7.14 shall be conditioned in any sense whatsoever upon the appointment of a successor to such indenture trustee.

SECTION 7.15. Action in Respect of Release of Property Included in the Indenture Estate Upon Partial Termination of Lease. Upon any sale or transfer of any Unit, or upon the termination of the Lease or otherwise pursuant to Section 2(e), 11 or 12 thereof, the Indenture Trustee shall, upon the written request of the Owner Trustee, execute and deliver to, or as directed in writing by, the Owner Trustee (a) an appropriate instrument releasing such Unit from the Lien of this Indenture and (b) an appropriate instrument releasing the Lease and the Participation Agreement in each case with respect to such Unit from the assignment and pledge thereof hereunder, but only if the Indenture Trustee shall have received the redemption price of the Certificates to be redeemed upon such sale or transfer.

The Indenture Trustee's release of all of its rights, interest and lien in and to any Unit having suffered an Event of Loss under Section 11 of the Lease shall be subject to the condition that the Indenture Trustee shall have received (i) a certificate of an Independent Appraiser reasonably acceptable to and approved by the Owner Trustee and the Indenture Trustee, following a physical inspection, stating the fair value to the Lessee of the Unit of railroad equipment to be substituted for such Unit and the value, utility and useful life thereof, and (ii) a certificate of an Appraiser as to the fair value of the Unit to be released from the Lien of this Indenture and stating that in the opinion of such Appraiser the proposed release will not impair the security under this Indenture in contravention of the provisions hereof, which certificate shall be prepared by an Independent Appraiser if the fair market value of the Unit to be released from the Lien of this Indenture and of all other property and securities released since the commencement of the then current calendar year, as set forth in the certificates required by Section 314(d)(1) of the TIA is 10% or more of the aggregate principal amount of the Certificates at the time Outstanding.

SECTION 7.16. Taxes; Withholding; Information Reporting. The Indenture Trustee shall exclude and withhold from each distribution of principal, premium, if any, and interest and other amounts due hereunder or under the Certificates any and all withholding taxes applicable thereto as required by law. The Indenture Trustee agrees to act as such withholding agent and, in

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connection therewith, whenever any present or future taxes or similar charges are required to be withheld with respect to any amounts payable in respect of the Certificates, to withhold such amounts and timely pay the same to the appropriate authority in the name of and on behalf of the Holders of the Certificates, that it will file or cause to be filed any necessary withholding tax returns or statements when due, and that, as promptly as possible after the payment thereof, it will deliver to each Holder of a Certificate appropriate documentation showing the payment thereof, together with such additional documentary evidence as such Holders may reasonably request from time to time. The Indenture Trustee agrees to file or cause to be filed any other information reports as it may be required to file under United States law.

SECTION 7.17. Office for Payments. So long as any of the Certificates remain Outstanding, the Indenture Trustee will maintain an office or agency where the Certificates may be presented for payment in Baltimore, Maryland.

SECTION 7.18. Reports by Indenture Trustee to Holders. Within 60 days after May 15 of each year commencing with the year 1992, so long as any Certificates are Outstanding under this Indenture, the Indenture Trustee shall transmit to the Holders as provided in Section 313(c) of the TIA a brief report dated as of such May 15 if required by Section 313(a) of the TIA.

SECTION 7.19. Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Lessee or the Owner Trustee to the Indenture Trustee to take any action under this Indenture, the Lessee or the Owner Trustee, as the case may be, shall furnish to the Indenture Trustee:

(1) a Certificate of a Responsible Officer stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(2) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

## ARTICLE VIII

### Supplemental Indentures

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SECTION 8.01. Supplemental Indentures Without Consent of Holders. The Owner Trustee and the Indenture Trustee, at any time and from time to time, without the consent of any Holder, may enter into one or more supplemental indentures hereto, in form and substance satisfactory to the Indenture Trustee, for the following purposes:

(a) to correct or amplify the description of any property at any time subject to the Lien of this Indenture (including, without limitation, upon compliance with Section 4.03 hereof, pursuant to an Assumption Event) or to subject additional property to the Lien of this Indenture or to subject Replacement Units to the Lien of this Indenture; or

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

(c) to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Indenture which shall not be inconsistent with the provisions of this Indenture, provided such action shall not adversely affect the interests of the Holders; or

(d) to add, eliminate or change any provision hereunder so long as such action shall not adversely affect the interest of the Holders; or

(e) to evidence the succession of a successor Owner Trustee to the Owner Trustee in accordance with the Trust Agreement, and the assumption by such successor of the covenants of the Owner Trustee herein and in the Certificates contained; or

(f) to provide for the appointment of any successor Indenture Trustee or co-indenture trustee or separate trustee hereunder, in accordance with Article VII hereof; or

(g) to evidence the assumption of the Certificates by the Lessee, as contemplated by Section 4.03 hereof; or

(h) to continue the qualification of this Indenture under the TIA.

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The Indenture Trustee is hereby authorized to join in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be contained therein and to accept the conveyance, transfer, assignment, mortgage or pledge of any property thereunder, but the Indenture Trustee shall not be obligated to enter into any such supplemental indenture which (as determined by the Indenture Trustee) adversely affects the Indenture Trustee's own rights, duties or immunities under this Indenture or otherwise, whether in its official or individual capacity.

SECTION 8.02. Supplemental Indentures with Consent of Holders. With the consent of the Holders of at least a majority in aggregate principal amount of Certificates Outstanding by Act of said Holders delivered to the Owner Trustee and the Indenture Trustee, the Owner Trustee may, and the Indenture Trustee shall, enter into a supplemental indenture or indentures hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders under this Indenture; provided, however, that no such supplemental indenture shall, without the consent of each Holder affected thereby:

(a) change the date specified for the payment of the principal of, or any interest or Premium on, any Certificate, or reduce the principal amount thereof or the interest thereon or any Premium payable upon the redemption thereof, or change the place of payment where, or the coin or currency in which, the principal of, or Premium or interest on, any Certificate is payable, or impair the right to institute suit for the enforcement of any such payment on or after the maturity thereof (or, in the case of redemption, on or after the Redemption Date), or

(b) create any security interest with respect to the Indenture Estate other than the security interest created by this Indenture, or deprive any Holder of any Certificates Outstanding of the Lien of this Indenture on the Indenture Estate, except as expressly permitted herein, or

(c) reduce the percentage in aggregate principal amount of the Certificates Outstanding the consent of the Holders of which is required for any supplemental indenture, or the consent of the Holders of which is required for any rescission or waiver (of compliance with certain provisions

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of this Indenture or of certain defaults hereunder and their consequences) provided for in this Indenture, or

(d) modify any of the provisions of this Section or Section 6.12, except to increase any such percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Certificate affected thereby.

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

### SECTION 8.03. Execution of Supplemental Indentures.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Indenture, the Indenture Trustee shall be entitled to receive, and (subject to Section 7.02 hereof) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture.

SECTION 8.04. Effect of Supplemental Indentures. Upon the execution of any supplemental indenture under this Article, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Certificates theretofore or thereafter issued and delivered hereunder shall be bound thereby.

SECTION 8.05. Intentionally Omitted.

SECTION 8.06. Reference in Certificates to Supplemental Indentures. Certificates authenticated and delivered after the execution of any supplemental indenture pursuant to this Article may, and if required by the Indenture Trustee shall, bear a notation in form and substance approved by the Indenture Trustee as to any matter provided for in such supplemental indenture. If the Owner Trustee shall so determine, new Certificates so modified as to conform, in the opinion of the Indenture Trustee and the Owner Trustee, to any such supplemental indenture may be prepared and executed by the Owner Trustee and authenticated and delivered by the Indenture Trustee in exchange for Certificates Outstanding.

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SECTION 8.07. No Request Necessary for Lease and Indenture Supplement. Notwithstanding anything contained in Section 8.02 hereof, no written request or consent of the Indenture Trustee, any Holder or the Owner Participant pursuant to Section 8.02 hereof shall be required to enable the Owner Trustee to execute and deliver a Lease and Indenture Supplement pursuant to the terms of the Lease.

ARTICLE IX

Covenants

A. The Owner Trustee hereby covenants and warrants as follows:

SECTION 9.01. To Pay Principal Amount and Interest. Subject to Section 1.09 hereof, the Owner Trustee will duly and punctually pay or cause to be paid the principal amount of and Premium, if any, and interest on all Certificates Outstanding, according to the terms thereof and hereof.

SECTION 9.02. To Take All Action in Further Assurance. Upon the request of the Indenture Trustee, the Owner Trustee will from time to time promptly do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, deeds, conveyances, transfers and assurances, as the Indenture Trustee shall reasonably require for better assuring, conveying, transferring, assigning and confirming the Indenture Estate unto the Indenture Trustee or as in the opinion of counsel for the Indenture Trustee may be required more effectively to subject the Indenture Estate to the Lien of this Indenture as security for, and for the benefit and protection of, the Certificates.

SECTION 9.03. Notice to Indenture Trustee of Default. Immediately upon a Responsible Officer in the Corporate Trust Administration department of the Owner Trustee having actual knowledge of the occurrence of an Indenture Default or an Indenture Event of Default, then, unless such Indenture Default or Indenture Event of Default shall have been cured or waived, the Owner Trustee shall notify the Indenture Trustee and each Holder of such occurrence in writing setting forth in reasonable detail the circumstances actually known to the Owner Trustee surrounding such Indenture Default or Indenture Event of Default

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and what action the Owner Trustee proposes to take with respect thereto.

SECTION 9.04. Restrictions on Transfer of Indenture Estate. The Owner Trustee shall not convey, transfer, assign or lease the Indenture Estate, or any part thereof, to any Person except as permitted by the Operative Documents.

SECTION 9.05. Payments to Indenture Trustee. The Owner Trustee hereby irrevocably directs the Lessee to make all payments to be made by it under the Lease, to the extent such payments do not constitute Excepted Property, to the Indenture Trustee until the Certificates and all other amounts due hereunder have been paid or otherwise discharged in full, and the Lessee hereby agrees to abide by such direction. The Owner Trustee agrees that should it receive any such payments or any proceeds of the Indenture Estate (excluding, however, any payments or amounts which have been distributed to the Owner Trustee or the Owner Participant by the Indenture Trustee in accordance with the provisions of this Indenture), it shall promptly forward such payments or proceeds to the Indenture Trustee or in accordance with the Indenture Trustee's instructions. The Indenture Trustee agrees to apply such amounts in accordance with Article X.

SECTION 9.06. Indenture Trustee as the Attorney-In-Fact for Owner Trustee. The Owner Trustee hereby irrevocably appoints the Indenture Trustee its attorney-in-fact such appointment being coupled with an interest, for it, and in its name, place and stead, to perform, or cause to be performed, any of its obligations under this Article IX.

SECTION 9.07. Amendments, Waivers, Etc. of Other Documents. (a) Without the consent of the Holders of a majority in aggregate principal amount of Certificates Outstanding by Act of said Holders delivered to the Indenture Trustee, the Owner Trustee will not modify, amend, supplement or waive any provision of the Lease, any other Indenture Estate Document or the Trust Agreement, or give any consent, waiver or authorization thereunder, except to the extent provided in the definition of Excepted Rights; provided, however, that the Owner Trustee may modify, amend, supplement or waive or consent to the modification, amendment, supplement or waiver of any provision of any of the above named documents if the effect thereof is only

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(i) to correct or supplement any defective or inconsistent provision therein in any manner which will not adversely affect the interest of the Holders; or

(ii) to protect or preserve the security interest created by this Indenture or the ownership interest of the Owner Trustee (subject to the Lien of this Indenture), if in the reasonable judgment of the Indenture Trustee it would be unwise to delay the effectiveness thereof for the period required to obtain the consent of the Holders; or

(iii) to cure any ambiguity or to add or modify any other provision in any of said documents in any manner which will not adversely affect the interests of the Holders.

Promptly after the execution and delivery thereof, the Owner Trustee will provide or cause to be provided to the Indenture Trustee executed or true and correct copies of any modification, amendment, supplement, waiver, consent or authorization executed and delivered pursuant to this subsection (a) with the consent of the Holders of a majority in aggregate principal amount of Certificates Outstanding.

(b) Notwithstanding any provision of this Indenture to the contrary, without the consent of each Holder affected thereby, the Owner Trustee will not modify, amend, supplement or waive any provision of, or give any consent, waiver or authorization under, and the Indenture Trustee will not, except to the extent provided in the definition of Excepted Rights, consent to the modification, amendment, supplement or waiver of the Lease, the Trust Agreement, or the Participation Agreement if (i) the effect thereof is to reduce the amount or extend the time of payment of Interim Rent, Basic Rent or Supplemental Rent payable under the Lease, except any adjustment pursuant to paragraphs (e) and (f) of Section 9 of the Lease (subject to paragraph (g) of said Section 9) or (ii) any such modification, amendment, supplement or waiver would have a material adverse effect on the rights or interest of the Holders.

(c) Upon receipt of a certificate of the Owner Trustee signed by a Responsible Officer thereof, and an Opinion of Counsel to the Owner Trustee, each to the effect that a modification, amendment, supplement, consent, waiver or authorization is permitted by this Section 9.07, the Indenture Trustee shall evidence its consent thereto and the Indenture

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Trustee may conclusively rely, and shall be fully protected in relying, upon such certificate and Opinion of Counsel.

(d) Without the consent of the Holders of 100% of the aggregate principal amount of Certificates Outstanding, the Indenture Trustee will not consent to an assignment of the Lease pursuant to Section 13(a) thereof.

SECTION 9.08. Keeping of Books. The Owner Trustee will keep or cause to be kept proper books of record and account, in which full and correct entries shall be made of all dealings or transactions of or in relation to the Certificates, the Units, the Lease and the other Operative Documents and the properties, business and affairs of the Owner Trustee in accordance with generally accepted accounting principles. The Owner Trustee will furnish to the Indenture Trustee any and all information as the Indenture Trustee may reasonably request with respect to the performance by the Owner Trustee of its covenants in this Indenture.

SECTION 9.09. Disposition of Units; Assignment of Lease. Without the consent of the Holders of a majority in aggregate principal amount of Certificates Outstanding by Act of said Holders delivered to the Indenture Trustee, but subject to the provisions of Section 10 of the Trust Agreement regarding successor Owner Trustees, the Owner Trustee will not sell, transfer, mortgage or lease any Unit, or assign the Lease or otherwise encumber or dispose of the Lease, any Unit or any interest in either thereof, except for a sale of such Unit as expressly provided for in the Lease.

B. The Lessee hereby covenants and warrants as follows:

SECTION 9.10 Reports by the Lessee. The Lessee shall:

(a) file with the Indenture Trustee, within 30 days after the Lessee is required to file the same with the SEC, copies of the annual reports (or copies of such portions of any of the foregoing as the SEC may from time to time by rules and regulations prescribe) which the Lessee is required to file with the SEC pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934, as amended; or, if the Lessee is not required to file information, documents or reports pursuant to either of such

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sections, then to file with the Indenture Trustee and the SEC, in accordance with rules and regulations prescribed by the SEC, such of the supplementary and periodic information, documents and reports which may be required pursuant to section 13 of the Securities Exchange Act of 1934, as amended, in respect of a security listed and registered on a national securities exchange as may be prescribed in such rules and regulations;

(b) file with the Indenture Trustee and the SEC, in accordance with the rules and regulations prescribed by the SEC, such additional information, documents and reports with respect to compliance by the Lessee with the conditions and covenants provided for in this Indenture, as may be required by such rules and regulations, including, in the case of annual reports, if required by such rules and regulations, certificates or opinions of independent public accountants, conforming to the requirements of Section 1.13;

(c) transmit to all Holders, in the manner and to the extent provided in Section 7.03 hereof such summaries of any information, documents and reports required to be filed by the Lessee pursuant to subsections (a) and (b) of this Section 9.10 as may be required by rules and regulations prescribed by the SEC; and

(d) furnish to the Indenture Trustee, not less often than annually, a brief certificate from the principal executive officer, principal financial officer or principal accounting officer as to his or her knowledge of the Lessee's compliance with all conditions and covenants under this Indenture. For purposes of this paragraph (d), such compliance shall be determined without regard to any period of grace or requirement of notice provided under this Indenture.

SECTION 9.11. Evidence of Recording of Indenture. The Lessee shall furnish to the Indenture Trustee:

(a) promptly after the execution and delivery of this Indenture an Opinion of Counsel either stating that in the opinion of such counsel this Indenture has been properly recorded and filed so as to make effective the Lien intended to be created hereby, and reciting the details of such action, or stating that in the opinion of such counsel no such action is necessary to make such Lien effective; and

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(b) at least annually after the execution and delivery of this Indenture, an Opinion of Counsel either stating that in the opinion of such counsel such action has been taken with respect to the recording, filing, re-recording, and re-filing of this Indenture as is necessary to maintain the Lien of this Indenture, and reciting the details of such action, or stating that in the opinion of such counsel no such action is necessary to maintain such Lien.

### ARTICLE X

#### Receipt, Distribution and Application of Funds

SECTION 10.01. Distribution of Interim Rent, Basic Rent and Certain Other Amounts in Absence of Indenture Event of Default. Except as otherwise provided in Sections 10.02, 10.03 and 10.06 hereof, each installment of Interim Rent, Basic Rent and any payment of interest on any Rent which is not paid when due by the Lessee, and any payment received by the Indenture Trustee pursuant to Section 12.03 hereof, received by the Indenture Trustee in respect of any Payment Date shall be distributed by the Indenture Trustee on the date payment thereof is due (or as soon thereafter as such payment shall be received by the Indenture Trustee) in the following order of priority:

First, to the payment of principal of and interest on the Certificates (including any interest on overdue principal and, to the extent permitted by Applicable Law, on overdue interest due on the Certificates) due and payable on such Payment Date; and

Second, the balance, if any, of such payment remaining thereafter shall be distributed, concurrently with any distributions pursuant to clause First hereof, to the Owner Trustee.

SECTION 10.02. Application of Payments Upon Redemption. Except as otherwise provided in Sections 10.03 and 10.06, any payments, proceeds or other amounts received by the Indenture Trustee in connection with any redemption pursuant to Section 4.01 shall in each case be distributed on the applicable Redemption Date (or as soon thereafter as such payment shall be received by the Indenture Trustee) by the Indenture Trustee in the following order of priority:

## Indenture

First, to redeem all of the Certificates Outstanding in an amount equal to the unpaid principal amount thereof, plus accrued and unpaid interest thereon to such Redemption Date and Premium, if any, thereon as at such Redemption Date or, if less than 100% of the unpaid principal amount of all the Outstanding Certificates is to be redeemed on such Redemption Date, in accordance with the determination of the Indenture Trustee pursuant to Section 4.02(e);

Second, to reimburse the Indenture Trustee for any expenses not reimbursed by the Lessee in connection with the collection or distribution of such payment; and

Third, the balance, if any, of such payment remaining thereafter shall be distributed to the Owner Trustee.

SECTION 10.03. Payments During Continuance of Indenture Event of Default. For so long as an Indenture Event of Default shall have occurred and be continuing, moneys held by the Indenture Trustee shall be distributed by the Indenture Trustee in the following order of priority:

First, to reimburse the Indenture Trustee for any fee, expense or other loss incurred by the Indenture Trustee in connection with its duties as Indenture Trustee (to the extent not previously reimbursed), and any compensation due and owing to the Indenture Trustee;

Second, to reimburse the Holders of the Certificates for payments made by such Holders or their predecessors in interest to the Indenture Trustee pursuant to Sections 6.09(c) and 7.04(e) (to the extent not previously reimbursed) ratably, without priority of one over the other, and to pay to the Holders of the Certificates all other amounts (other than principal and interest on the Certificates) payable to them pursuant to the Participation Agreement, the Lease or any other Operative Document;

Third, to pay in full the aggregate unpaid principal amount of all Certificates Outstanding then due and payable (whether by declaration of acceleration or otherwise), plus the Premium, if any, due thereon and the accrued and unpaid interest thereon (including any interest on overdue principal and, to the extent permitted by Applicable Law, interest on overdue interest and Premium, if any, due on the

## Indenture

Certificates) to the date of payment, to the Holders of such Certificates, ratably, without priority of one over the other;

Fourth, to reimburse the Owner Trustee for any expense or other loss incurred by the Owner Trustee in connection with its duties as Owner Trustee; and

Fifth, the balance, if any, shall be distributed to the Owner Trustee.

SECTION 10.04. Application as Directed by Other Agreements. Except as otherwise provided in this Article, any payments received by the Indenture Trustee, provision for the application of which is made in the Lease or any other Operative Document, shall be applied to the purpose for which such payment was made in accordance with the terms of the Lease or such other Operative Document, as the case may be.

SECTION 10.05. Application in Absence of Direction. Except as otherwise provided in this Article:

(a) any payments received by the Indenture Trustee for which no provision as to the application thereof is made in the Lease or any other Operative Document, and

(b) any payments received by the Indenture Trustee under the Lease or any other Operative Document, or otherwise, with respect to any Unit after payment and performance in full of the Certificates, as well as any amounts or moneys then held or thereafter received by the Indenture Trustee,

shall be distributed by the Indenture Trustee in the following order of priority:

First, in the manner provided in clause First of Section 10.03;

Second, in the manner provided in clause Fourth of Section 10.03; and

Third, in the manner provided in clause Fifth of Section 10.03.

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### SECTION 10.06. Application of Excepted Property.

Notwithstanding anything to the contrary contained herein, Excepted Property is not a part of the Indenture Estate and any Excepted Property received by the Indenture Trustee shall be paid or delivered promptly by the Indenture Trustee to the Person to whom such Excepted Property is payable or deliverable, whether or not an Indenture Event of Default has occurred.

### SECTION 10.07. Distribution of Certain Funds. All

amounts that are to be distributed by the Indenture Trustee to the Owner Trustee pursuant to this Article shall, unless otherwise directed by an Owner Trustee Request, be so distributed to the Owner Trustee as indicated in Schedule 2 to the Participation Agreement in funds of the type furnished to the Indenture Trustee. Notwithstanding the foregoing or any other provision in this Indenture to the contrary, the Indenture Trustee will pay, unless otherwise requested by the Owner Participant by written notice to the Indenture Trustee, all amounts payable to the Owner Trustee or a nominee thereof (including all amounts distributed pursuant to this Article) to the Owner Participant either (a) by crediting the amount to be distributed to the account maintained by the Owner Participant with the Indenture Trustee or by transferring by wire such amount to such other bank in the United States, including a Federal Reserve Bank, as shall have been specified in such written notice to the Indenture Trustee, to the extent such funds are so available for immediate credit to the account of the Owner Participant maintained at such bank, or (b) by mailing a check payable in funds which are clearing house funds to the Owner Participant at such address as the Owner Participant shall have specified in such written notice to the Indenture Trustee. For purposes of the preceding sentence, the payment instructions for the Owner Participant set forth in Schedule 2 to the Participation Agreement shall be deemed to constitute such written notice by the Owner Participant to the Indenture Trustee, unless and until the Owner Participant shall otherwise notify the Indenture Trustee. Distributions by the Indenture Trustee pursuant to this Section shall be made on the date that payment is received therefor to the extent such funds are available to do so by the Indenture Trustee, provided that if any such payment is received by the Indenture Trustee after 1:00 p.m. Baltimore time, the Indenture Trustee shall, if it is impracticable to distribute such payment on the date of receipt, be permitted to distribute such payment on the next succeeding Business Day.

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SECTION 10.08. Priority of Applications with Respect to Principal, Premium and Interest. All payments in respect of principal of, and Premium, if any, and interest on, the Certificates shall be applied, first to the payment of interest and then the remainder, if any, to the payment of principal and any Premium on such Certificates.

SECTION 10.09. Distributions Withheld from the Owner Trustee. Anything in this Article to the contrary notwithstanding other than Section 10.06, after the Indenture Trustee shall have knowledge of an Indenture Default (resulting from a failure to pay money due) or an Indenture Event of Default, all payments which, but for the provisions of this Section, would otherwise be distributable to the Owner Trustee shall be held by the Indenture Trustee as part of the Indenture Estate, and may be distributed in accordance with clauses First, Second and Third of Section 10.03 hereof; provided, however, that (a) if such Indenture Default or Indenture Event of Default shall cease to be continuing prior to the time such amounts may become distributable pursuant to Section 10.03 hereof or (b) if such amounts shall have been retained by the Indenture Trustee for more than one year and the Indenture Trustee shall neither (i) have declared the unpaid principal amount of all Certificates Outstanding to be immediately due and payable pursuant to Section 6.02 hereof nor (ii) have commenced the exercise of remedies under the Lease, such amounts shall be distributable as provided in Section 10.01 hereof.

SECTION 10.10. Investment of Amounts Held by the Indenture Trustee. Any amounts held by the Indenture Trustee pursuant to Sections 10.09 or 10.11, the fourth sentence of Section 12.03 or any other provision of any other Operative Document providing for investment of sums pursuant to this Section 10.10 shall be held by the Indenture Trustee hereunder as part of the Indenture Estate and, at the direction of the Lessee, invested and reinvested by the Indenture Trustee in such Permitted Investments as shall have been selected by the Lessee. Any income realized as a result of any such investment, net of the Indenture Trustee's reasonable fees and expenses in making such investment, shall be held and applied by the Indenture Trustee in the same manner as the principal amount of such investment is to be applied and any losses, net of earnings and such reasonable fees and expenses, shall be charged against the principal amount invested. The Indenture Trustee shall not be liable for any loss resulting from any investment required to be made by it under this Indenture other than by reason of its

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willful misconduct or negligence, and any such investment may be sold (without regard to its maturity) by the Indenture Trustee without instructions from any Holder whenever the Indenture Trustee reasonably believes such sale is necessary to make a distribution required by this Indenture.

Together with such direction by the Lessee, the Lessee on behalf of the Owner Trustee shall furnish the Indenture Trustee with the following:

(a) a certificate of an Appraiser as to the fair value to the Lessee of Permitted Investments to be sold or disposed of and stating that in the opinion of such Appraiser the proposed release of such Permitted Investments from the Lien of this Indenture will not impair the security under this Indenture in contravention of the provisions hereof, which Appraiser shall be Independent if the fair value to the Lessee of such Permitted Investments and of all other property or securities released since the commencement of the then current calendar year, as set forth in the certificates required by paragraph (1) of subsection (d) of section 314 of the TIA, is 10% or more of the aggregate principal amount of the Certificates at the time Outstanding; and

(b) a certificate of an Appraiser as to the fair value to the Lessee of Permitted Investments to be purchased or invested in, which Appraiser shall be Independent if the fair value to the Lessee of such Permitted Investments and all other securities made the basis of any withdrawal of cash constituting a part of the Indenture Estate or the release of property or securities subject to the Lien of this Indenture, as set forth in the certificates required by paragraph (2) of subsection (d) of section 314 of the TIA, is 10% or more of the aggregate principal amount of the Certificates at the time Outstanding.

SECTION 10.11. Payment upon Purchase of any Units.  
The proceeds from the sale of the Certificates promptly shall be deposited with the Indenture Trustee. On the Closing Date, subject to fulfillment to the satisfaction of or waiver by the Indenture Trustee of all conditions specified in Section 5 of the Participation Agreement as originally executed and the receipt by the Indenture Trustee of the proceeds from the sale of the Certificates, the Indenture Trustee, on behalf of the Holders, shall release to the Owner Trustee an amount equal to the

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Holder's Commitment in respect of the Units to be purchased on the Closing Date pursuant to Section 4(c) of the Participation Agreement.

### ARTICLE XI

#### Use of Indenture Estate

SECTION 11.01. Possession, Etc. by Owner Trustee; Dispositions Without Release. Subject to the Granting and Habendum Clauses and the provisions of this Article XI and of the Lease, the Owner Trustee shall be suffered and permitted to possess, lease, use, manage, operate and enjoy the Indenture Estate (other than any cash and securities constituting part of the Indenture Estate) and to collect, receive, use, invest and dispose of the rents, issues, tolls, profits, revenues and other income from the Indenture Estate and to deal with, exercise any and all rights under, receive and enforce performance under, and adjust and settle all matters relating to current performance of, choses in action, leases and contracts relating to the Indenture Estate. In addition to and notwithstanding the foregoing, the Owner Trustee and the Lessee shall be suffered and permitted, freely and without hindrance on the part of the Indenture Trustee or of the Holders, to maintain, improve, alter, repair and modify (and to permit any maintenance, improvement, alteration, repair or modification of) the Units or any part thereof and to replace (or permit the replacement of) any part of any Units, provided that such maintenance, improvement, alterations, repair, modification or replacement shall be made in accordance with the provisions of the Lease.

Notwithstanding the foregoing, nothing contained herein shall be deemed to affect the right, title and interest of the Lessee in and to any Severable Improvement, the title to which is in the Lessee and is therefore not a part of the Indenture Estate.

The Indenture Trustee shall, from time to time, execute a written instrument to confirm any action taken by the Owner Trustee or the Lessee under this Section, upon receipt by the Indenture Trustee of (i) an Owner Trustee Request requesting the same, (ii) an Officer's Certificate of the Owner Trustee or the Lessee stating that said action was duly taken in conformity with this Section and (iii) an Opinion of Counsel of the Owner Trustee or the Lessee, as the case may be, stating that said action was

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duly taken by or on behalf of the Owner Trustee or the Lessee, as the case may be, in conformity with this Section and that the execution of such written instrument is appropriate to confirm such action under this Section.

SECTION 11.02. Powers Exercisable Notwithstanding Default. While in possession of the Indenture Estate (other than any cash and securities constituting part of the Indenture Estate deposited or to be deposited with the Indenture Trustee), the Owner Trustee may exercise the powers conferred upon it in the Sections of this Article even though it is prohibited from doing so while an Indenture Event of Default exists as provided herein, if the Indenture Trustee in its discretion, or the Holders of not less than a majority in principal amount of the Certificates Outstanding by Act of such Holders, shall consent to such action, in which event none of the instruments required to be furnished to the Indenture Trustee under any of such Sections as a condition to the exercise of such powers need state that no Indenture Event of Default exists as provided therein.

SECTION 11.03. Purchaser Protected. No purchaser in good faith of property purporting to be released herefrom shall be bound to ascertain the authority of the Indenture Trustee to execute a release or to inquire as to the existence of any conditions herein prescribed for the exercise of such authority; nor shall any purchaser or grantee of any property or rights permitted by this Article to be sold or otherwise disposed of by the Owner Trustee be under any obligation to ascertain or inquire into the authority of the Owner Trustee to make any such sale or other disposition. Any release executed by the Indenture Trustee under this Article shall be sufficient for the purpose of this Indenture and shall constitute a good and valid release of the property therein described from the Lien hereof.

ARTICLE XII

Rights of the Owner Trustee  
and the Owner Participant

SECTION 12.01. Certain Rights of Owner Trustee and Owner Participant. Notwithstanding any other provision of this Indenture, including the Granting Clause, the following rights (the "Excepted Rights") shall be reserved to the Owner Trustee or the Owner Participant, as the case may be (as separate and independent rights), to the extent described herein:

(a) at all times and whether or not an Indenture Event of Default has occurred and is continuing, the Owner Trustee shall have the right, together with the Indenture Trustee, (i) to receive from the Lessee all notices, certificates, reports, failings, opinions of counsel and other documents and all information which the Lessee is permitted or required to give or furnish to the Owner Trustee or the Lessor pursuant to the Participation Agreement or any Indenture Estate Document, (ii) to inspect the Units to the extent provided in Section 6 of the Lease, (iii) so long as the exercise of the following rights do not materially and adversely affect the Indenture Trustee or the Holders (as determined by the Indenture Trustee), to retain all rights together with the Indenture Trustee (waiver, consent or approval of both being required except in the case of Section 19 of the Lease referred to below), including the giving of any waiver, consent or approval, that Sections 5, 8, 10, 13, 17 and 19 of the Lease confer upon the Owner Trustee or the Owner Participant, as the case may be, and (iv) to provide such insurance as the Lessee shall have failed to maintain;

(b) so long as no Indenture Event of Default shall have occurred and be continuing, the Owner Trustee shall have the right (i) to the exclusion of the Indenture Trustee, (A) except as specified in clause (ii) below, to exercise the rights, elections and options of the Owner Trustee (as Lessor under the Lease) to make any decision or determination and to give any notice, consent, waiver or approval as may be requested under the Lease, (B) to exercise all rights and duties of the Owner Trustee (as Lessor under the

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Lease) under Sections 2, 9(e) 9(f), 12 and 21 of the Lease, and (C) to approve as satisfactory any accountants, engineers or counsel to render services for or issue opinions to the Owner Trustee pursuant to express provisions of the Operative Documents and to exercise its rights under the Appraisal Procedure, in each such case, only after providing the Indenture Trustee with security or indemnity satisfactory to the Indenture Trustee against the costs, expenses and liabilities which might be incurred by the Indenture Trustee as a result of such exclusion, and (ii) together with the Indenture Trustee, to retain the right to require the Lessee to take any action and execute and deliver such documents and assurances as the Lessor may from time to time reasonably request pursuant to Section 17 of the Lease;

(c) the Owner Trustee shall have the right, as the Lessor, to seek specific performance of the covenants of the Lessee;

(d) at all times and whether or not an Indenture Event of Default has occurred and is continuing, each of the Owner Trustee (as Owner Trustee and as the Lessor) and the Owner Participant shall have the right, to the exclusion of the Indenture Trustee, (i) to execute supplements to the Lease in connection with any adjustment of Rent pursuant to Section 9(e) or (f) of the Lease, and (ii) to demand, collect, sue for or otherwise receive and enforce the payment of Excepted Property due and payable to it or damages in respect of the breach of any covenant to pay Excepted Property; and

(e) at all times the consent of the Owner Trustee (with the consent of the Owner Participant) shall be required to amend, modify or supplement, directly or indirectly, Section 1 (if any modification of a definition contained therein would result in a modification of the Lease not permitted by this clause (e)), 2, 3, 5, 7(d), 8, 9, 10, 11, 16 or 23(j) of the Lease, or any other section of the Lease (to the extent any amendment or supplement to, or modification of, any such other section would, directly or indirectly, affect the amount or timing of any amounts payable by the Lessee under the Lease (as such Lease may have been

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modified with the consent of the Owner Trustee) which amounts, absent the occurrence and continuance of an Indenture Event of Default, will be distributable to the Owner Trustee hereunder).

SECTION 12.02. Owner Participant's Right to Elect to Redeem the Certificates, and to Provide for Payment. (a) At any time when an Event of Default has occurred and has continued for at least 180 days and no Indenture Event of Default (that is not or does not result from an Event of Default) has occurred and is continuing and the Certificates shall not have become due and payable as provided for in Section 6.02(b) or Section 6.02(c), the Owner Trustee may (but shall have no obligation to), by notice (which notice shall be, and shall be stated to be, irrevocable and shall specify the Redemption Date, which shall be not less than 45 or more than 60 days subsequent to the effective date of such notice) to the Indenture Trustee, direct the Indenture Trustee to redeem all the Outstanding Certificates on such Redemption Date. The aggregate redemption price in respect of a redemption pursuant to this Section 12.02(a) shall be 100% of the unpaid principal amount of all the Outstanding Certificates, plus accrued and unpaid interest (including interest at the per annum rate set forth on the face of each Certificate plus 1% on any amounts of overdue principal and, to the extent permitted by Applicable Law, interest) thereon to such Redemption Date, plus, in case such a redemption occurs before one year after the occurrence of such Event of Default, Premium on such principal amount, but otherwise, unless the Owner Participant controls, is controlled by, or is under common control with, the Lessee, without premium. The Indenture Trustee shall notify each Holder of such redemption as provided for in Section 4.02(b), and the Owner Trustee shall deposit the aggregate redemption price of all Outstanding Certificates with the Indenture Trustee as provided for in Section 4.04.

(b) At any time while the Certificates shall have become due and payable as provided in Section 6.02(b) or 6.02(c), the Owner Participant may, but shall be under no obligation to, direct the Owner Trustee to pay to the Indenture Trustee for distribution in the manner provided for in Section 10.03 hereof an amount equal to the aggregate unpaid principal amount of all Outstanding Certificates, plus all accrued but unpaid interest thereon and all other amounts due thereunder pursuant to clause Third of Section 10.03 to the date of such payment, plus the amount required to reimburse the Indenture Trustee and the Holders as described in clauses First and Second of Section 10.03

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hereof. The Owner Trustee shall give written notice of such payment to the Indenture Trustee, which notice, in order to be effective, shall state that it is irrevocable and shall designate a date not more than fourteen days thereafter as the payment date. The Indenture Trustee shall promptly notify each Holder of such payment. Upon such payment by the Owner Trustee to the Indenture Trustee, the Certificates shall cease to accrue interest thereafter, and the Indenture Trustee shall, after making the distributions provided for in clauses First, Second and Third of Section 10.03 or providing therefor, release the Indenture Estate from the Lien of this Indenture.

(c) From and after the deposit by the Owner Trustee of the applicable amount with the Indenture Trustee pursuant to Section 12.02(a) or the payment by the Owner Trustee of the amount specified in Section 12.02(b), the Owner Trustee shall be entitled to exercise all remedies of the Indenture Trustee under Article VI as well as of the Lessor under the Lease.

SECTION 12.03. Certain Rights of Owner Participant.  
In the event of any default by the Lessee in the payment of Basic Rent due under the Lease, the Owner Participant may (but shall have no obligation to), without the consent or concurrence of any Holder, direct the Owner Trustee to pay, in the manner provided in Section 9(d) of the Lease, no more than 15 days after such default becomes an Event of Default, for application in accordance with Section 10.01, a sum equal to the amount of all (but not less than all) such overdue Basic Rent, which shall, in any event, be sufficient to pay all such principal and interest as shall then (without regard to any acceleration pursuant to Section 6.02(b)) be due and payable in respect of the Certificates. In the event of any default by the Lessee in any obligation under the Lease other than the payment of Basic Rent, which constitutes an Event of Default, if such default can be remedied by the payment of money (it being understood that defaults requiring action such as the obtaining of insurance and the procuring of maintenance services can be so remedied) and the Owner Trustee shall have been furnished by the Owner Participant with all funds necessary for remedying such Event of Default, the Owner Participant may, no more than 10 days after notice of such Event of Default, without the consent or concurrence of any Holder, direct the Owner Trustee to exercise the Lessor's rights under Section 21 of the Lease to perform such obligation on behalf of the Lessee. Solely for the purpose of determining whether there exists an Indenture Default, (a) any timely payment by the Owner Trustee pursuant to, and in compliance with, the

## Indenture

first sentence of this Section 12.03 shall be deemed to remedy (but solely for purposes of this Indenture) any default by the Lessee in the payment of installments of Basic Rent theretofore due and payable to remedy any default by the Owner Trustee in the payment of any amount due and payable under the Certificates or hereunder, and (b) any timely performance by the Owner Trustee of any obligation of the Lessee under the Lease pursuant to, and in compliance with, the second sentence of this Section 12.03 shall be deemed to remedy (but solely for purposes of this Indenture) any default by the Lessee under the Lease to the same extent that like performance by the Lessee itself would have remedied such default (but the same shall not relieve the Lessee of its duty to pay all Rent and perform all of its obligations pursuant to the Lease). If, on the basis specified in the preceding sentence, any Events of Default shall have been remedied, then any declaration pursuant to Section 14 of the Lease that the Lease is in default, and any declaration pursuant to this Indenture that the Certificates are due and payable or that an Indenture Event of Default or an Indenture Default exists hereunder, based upon such Events of Default, shall be deemed to be rescinded, and the Owner Trustee or the Owner Participant, as the case may be, shall (to the extent of any such payments made by it) be subrogated to all the rights of the Indenture Trustee under the Lease in respect of the payment or the obligation giving rise to such payment, performance or observance by the Owner Trustee or the Owner Participant, as the case may be, and any right to any interest in respect thereof, and shall be entitled to any payment or other performance in respect thereof upon receipt by the Indenture Trustee; provided that the Owner Trustee shall not otherwise attempt to recover any such amount paid by it on behalf of the Lessee pursuant to this Section 12.03 except by demanding of the Lessee payment of such amount or by commencing an action at law and obtaining and enforcing a judgment against the Lessee for the payment of such amount; provided further that at no time while an Indenture Event of Default shall have occurred and be continuing shall any such demand be made or shall any such action be commenced (or continued), and any amounts nevertheless received by the Owner Trustee in respect thereof shall be held in trust for the benefit of, and promptly paid to, the Indenture Trustee for distribution as provided in Section 10.03 hereof; and provided further that the Owner Participant and the Owner Trustee may not exercise their rights under this Section 12.03 with respect to defaults in the payment of Basic Rent due under the Lease with respect to more than a total of six (6) Payment Dates during the Lease Term, or with respect to more than three (3) consecutive Payment Dates.

Indenture

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

FIRST SECURITY BANK OF UTAH,  
NATIONAL ASSOCIATION  
not in its individual  
capacity but solely as  
Owner Trustee

By: Val J. Ostr  
Title: ASSISTANT VICE PRESIDENT

MERCANTILE-SAFE DEPOSIT  
AND TRUST COMPANY  
not in its individual  
capacity but solely  
as Indenture Trustee,  
except as expressly  
set forth herein

By: [Signature]  
Vice President

Attest: Robert D. Brown  
Corporate Trust Officer

CSX TRANSPORTATION, INC.

By: Michael J. Martino  
Title: ASSISTANT TREASURER



Indenture

STATE OF MARYLAND        )  
                                  : ss.:  
CITY OF BALTIMORE        )

On this <sup>30</sup>th day of October, 1991, before me personally appeared John M. Mitchell to me personally known, who, being by me duly sworn, says that he is a Vice President of Mercantile-Safe Deposit and Trust Company, that said instrument was signed and sealed on behalf of said trust company 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 trust company.

Karen Luebehusen  
Notary Public

My Commission Expires: 10/1/93

[Notary Seal]





EXHIBIT A  
to  
Indenture, Mortgage and  
Security Agreement

[Form of Face of Certificate]

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Company or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof Cede & Co., has an interest herein.

\$ \_\_\_\_\_

No. \_\_\_\_\_

8.41% 1991 EQUIPMENT TRUST CERTIFICATE, SERIES A  
FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION  
not in its individual capacity  
but solely as  
OWNER TRUSTEE UNDER TRUST AGREEMENT  
DATED AS OF OCTOBER 15, 1991

FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, not in its individual capacity but solely as Owner Trustee (herein in such capacity called the "Owner Trustee") under that certain Trust Agreement dated as of October 15, 1991 between CSX Intermodal, Inc. and First Security Bank of Utah, National Association (herein as such Trust Agreement may be amended or supplemented from time to time called the "Trust Agreement"), for value received, hereby promises to pay to \_\_\_\_\_, or registered assigns, the principal sum of \_\_\_\_\_ Dollars, 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, and to pay interest on the principal outstanding from time to time, semiannually on each March 1 and September 1 and commencing March 1, 1992, in like coin or currency at the rate per annum set forth above from the date hereof or from the most recent date to which interest on the

Certificates has been paid or duly provided for, until the principal hereof is paid or made available for payment. Interest at the rate set forth above plus 1% per annum shall be payable on any amount of overdue principal and (to the extent permitted by Applicable Law) overdue interest and overdue Premium, if any, to the date of payment thereof.

The principal hereof shall be payable in installments, on each March 1, commencing March 1, 1993, and ending on March 1, 2006. Each such installment shall be in an amount equal to that percentage of the principal amount hereof specified in Schedule A hereto. In case of partial redemption of this Certificate, the installments of principal payable after such redemption shall be reduced, pro rata, by the principal amount of such redemption.

The installments of principal and interest so payable, and punctually paid or duly provided for, on any such Payment Date (defined terms used herein unless otherwise defined herein, having the respective meanings set forth in Schedule X to the Indenture, Mortgage and Security Agreement, dated as of October 15, 1991, among the Owner Trustee, Mercantile Safe Deposit and Trust Company and CSX Transportation, Inc. (the "Indenture")) will, as provided in the Indenture, be paid to the Person in whose name this Certificate (or one or more predecessor Certificates) is registered at the close of business on the Record Date for payment of such principal or interest, which shall be February 15 or August 15 (whether or not a Business Day), as the case may be, next preceding such Payment Date. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the registered Holder hereof on such Record Date (or to the Person in whose name this Certificate is registered upon issuance) and may be paid to the Person in whose name this Certificate (or one or more predecessor Certificates) is registered at the close of business on a special record date for the payment of such Defaulted Payment to be fixed by the Indenture Trustee, notice whereof shall be given to Holders of Certificates not less than 10 days prior to such special record date, or may be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Certificates may be listed, and upon such notice as may be required by such exchange, all as more fully provided in the Indenture.

Principal, Premium, if any, and interest and other amounts due hereunder shall be payable at the principal corporate trust office of the Indenture Trustee or at such other office or agency maintained by the Indenture Trustee for such purpose;

provided that, at the option of the Indenture Trustee, installments of principal and interest may be paid by wire transfer to the account of the Holder designated in writing to the Indenture Trustee or by mailing a check therefor payable to the registered Holder entitled thereto at such Holder's last address as it appears on the Certificate Register. If any amount payable under this Certificate, or under the Indenture, falls due on a day that is not a Business Day, then such sum shall be payable on the next succeeding Business Day, without additional interest thereon for the period of such extension.

No employee benefit plan subject to Part 4 of Subtitle B of Title I of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), or individual retirement account or employee benefit plan subject to Section 4975 of the Internal Revenue Code of 1986, as amended (hereinafter collectively referred to as an "ERISA Plan"), may acquire or hold any of the Certificates. Certain employee benefit plans which are governmental plans (as defined in Section 3(32) of ERISA) and certain church plans (as defined in Section 3(33) of ERISA), however, are not subject to Part 4 of Subtitle B of Title I of ERISA and, therefore, may acquire or hold the Certificates. Any fiduciary of a governmental or church plan should consult with his legal counsel as to the propriety of an investment in any Certificate. The purchase by any Person of any Certificate shall be deemed to constitute a representation by such Person to CSX Transportation, Inc. as the Lessee, CSX Intermodal, Inc. as the Owner Participant, the Owner Trustee and the Indenture Trustee that such Person is not purchasing, and has not purchased, such Certificate with assets of an ERISA Plan.

First Security Bank of Utah, National Association and Mercantile-Safe Deposit and Trust Company are not acting individually hereunder, but solely as Owner Trustee and Indenture Trustee, respectively.

Reference is made to the further provisions set forth on the reverse hereof. Such provisions shall for all purposes have the same effect as though fully set forth at this place.

This Certificate shall not be secured by or be entitled to any benefit under the Indenture or be valid or obligatory for any purpose unless this Certificate has been executed on behalf of the Owner Trustee by the manual or facsimile signature of one of the officers of the Owner Trustee and authenticated by the Indenture Trustee as evidenced by the manual signature of one of its authorized officers on the certificate below.

IN WITNESS WHEREOF, the Owner Trustee has caused this 8.41% 1991 Equipment Trust Certificate, Series A to be duly executed in its corporate name by its officer thereunto duly authorized.

Dated:

FIRST SECURITY BANK OF UTAH,  
NATIONAL ASSOCIATION  
not in its individual capacity  
but solely as Owner Trustee

By \_\_\_\_\_  
Authorized Signatory

[FORM OF INDENTURE TRUSTEE'S CERTIFICATE OF AUTHENTICATION]

This is one of the 8.41% 1991 Equipment Trust  
Certificates, Series A referred to in the within-mentioned  
Indenture.

Dated:

MERCANTILE-SAFE DEPOSIT AND  
TRUST COMPANY  
not in its individual capacity  
but solely as Indenture Trustee

By \_\_\_\_\_  
Authorized Signatory

[Form of Reverse of Certificate]

This Certificate is one of a duly authorized issue of Certificates issued and to be issued under the Indenture, Mortgage and Security Agreement dated as of October 15, 1991 (herein as amended, supplemented or modified from time to time called the "Indenture") among the Owner Trustee and Mercantile-Safe Deposit and Trust Company, as Indenture Trustee (the "Indenture Trustee"), and CSX Transportation, Inc., designated as 8.41% 1991 Equipment Trust Certificates, Series A, limited in aggregate principal amount to \$[            ].

Reference is made to the Indenture and all supplements and amendments thereto (a copy of which is on file with the Indenture Trustee at its principal corporate trust office) for a more complete statement of the terms and provisions thereof, including a statement of the properties conveyed, pledged and assigned thereby, the nature and extent of the security, the respective rights of the Owner Trustee, the Indenture Trustee and the Holders, and the terms upon which the Certificates are, and are to be, executed and delivered, as well as for a statement of the terms and conditions of the trust created by the Indenture, to all of which terms and conditions in the Indenture each Holder hereof agrees by its acceptance of this Certificate.

All payments of principal, Premium (if any) and interest and other amounts to be made to the Holder hereof by or at the behest of the Owner Trustee hereunder or under the Indenture shall be made only from the income and proceeds from the Indenture Estate and only to the extent that the Owner Trustee shall have sufficient income or proceeds from the Indenture Estate to enable the Indenture Trustee to make such payments in accordance with the terms of the Indenture, and each Holder hereof, by its acceptance of this Certificate, agrees that it will look solely to the income and proceeds from the Indenture Estate to the extent available for distribution to the Holder hereof as provided above and that none of the Owner Participant, the Owner Trustee or the Indenture Trustee is personally liable to the Holder hereof for any amounts payable or any liability under this Certificate or under the Indenture, except as expressly provided in the Indenture (in the case of the Owner Trustee and the Indenture Trustee) or as expressly provided in the Participation Agreement (in the case of the Owner Participant).

As more fully provided in Section 4.01 of the Indenture, the Certificates are subject to redemption, in whole or in part, on not less than 30 days' or more than 60 days' notice, by first-class mail, under the circumstances set forth in the Indenture at a redemption price equal to the unpaid principal amount to be redeemed of such Certificate together with accrued interest thereon to the Redemption Date and Premium, if any.

If an Indenture Event of Default shall occur and be continuing, the principal of the Certificates may be declared due and payable in the manner and with the effect provided in the Indenture. The Indenture provides that in certain events such declaration and its consequences may be waived by the Holders of at least a majority in aggregate principal amount of Certificates Outstanding. Any such consent or waiver by the Holder of this Certificate shall be conclusive and binding upon such Holder and upon all future Holders and owners of this Certificate and any Certificate that may be issued in exchange or substitution therefor, whether or not any notation thereof is made upon this Certificate or such other Certificates. Moreover, if, and only if, an Event of Default shall occur, the Indenture Trustee may, subject to certain limitations set forth in the Indenture, declare the Lease to be in default, and may, to the exclusion of the Owner Trustee, exercise one or more of the remedies of the Owner Trustee provided in the Lease.

The Owner Trustee, at the direction of the Owner Participant, may cure a default by the Lessee under the Lease subject to certain limitations set forth in the Indenture.

At any time while the Certificates have become immediately due and payable as provided in the Indenture, the Owner Participant or the Owner Trustee may pay to the Indenture Trustee for distribution to the Holders an amount equal to the aggregate unpaid principal amount of all Certificates Outstanding plus all accrued but unpaid interest thereon to the date of payment and all other amounts due hereunder and under the Indenture. Upon such payment, the Certificates shall cease to accrue interest thereafter.

The right of the Holder hereof to institute action for any remedy under the Indenture is subject to certain restrictions specified in the Indenture, except that the right of the Holder of this Certificate to receive payment of the principal of, Premium, if any, and interest on this Certificate on or after the respective due dates, or to institute suit for the enforcement of

any such payment, shall not be impaired or affected without the consent of such Holder.

The Certificates are issuable only as registered Certificates without coupons. So long as any of the Certificates remain Outstanding, the Indenture Trustee will maintain an office or agency where the Certificates may be presented for payment and a facility or agency in New York, New York or Baltimore, Maryland where the Certificates may be presented for registration of transfer and for exchange as provided in the Indenture. As provided in the Indenture and subject to certain limitations therein, this Certificate is transferable, and upon surrender of this Certificate for registration of transfer at the principal corporate trust office of the Indenture Trustee, or at the office or agency maintained for such purpose, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Owner Trustee and the Indenture Trustee duly executed by, the Holder or his attorney duly authorized in writing, one or more new Certificates of authorized denominations and for the same aggregate principal amount will be issued to the designated transferee or transferees.

As provided in the Indenture and subject to certain limitations therein, the Certificates are exchangeable for an equal aggregate principal amount of Certificates, as requested by the Holder surrendering the same, upon presentation thereof for such purpose at the principal corporate trust office of the Indenture Trustee, or at an office or agency maintained for such purpose.

No service charge to the Holder shall be made for any such registration of transfer or exchange, but the Indenture Trustee may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to the due presentment for registration of transfer of this Certificate, the Owner Trustee, the Indenture Trustee, any agent of the Owner Trustee or the Indenture Trustee and the Lessee may deem and treat the person in whose name this Certificate is registered as the absolute owner hereof for the purpose of receiving payment of the principal of, and Premium, if any, and interest on this Certificate and for all other purposes whether or not this Certificate is overdue, and neither the Owner Trustee nor the Indenture Trustee (or any agent of the Owner Trustee or the Indenture Trustee) or the Lessee shall be affected by notice to the contrary.

AS PROVIDED IN THE INDENTURE, THE INDENTURE AND THE  
CERTIFICATES SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED  
BY THE LAWS OF THE STATE OF NEW YORK.

SCHEDULE A

<u>Payment Date</u>	<u>Percentage of Outstanding Principal Amount</u>
3 / 1 / 1992	0.00000000
9 / 1 / 1992	0.00000000
3 / 1 / 1993	3.51554698
9 / 1 / 1993	0.00000000
3 / 1 / 1994	3.95623112
9 / 1 / 1994	0.00000000
3 / 1 / 1995	4.46314888
9 / 1 / 1995	0.00000000
3 / 1 / 1996	5.06173540
9 / 1 / 1996	0.00000000
3 / 1 / 1997	5.77679645
9 / 1 / 1997	0.00000000
3 / 1 / 1998	6.64290531
9 / 1 / 1998	0.00000000
3 / 1 / 1999	7.70973819
9 / 1 / 1999	0.00000000
3 / 1 / 2000	8.91391876
9 / 1 / 2000	0.00000000
3 / 1 / 2001	9.97670064
9 / 1 / 2001	0.00000000
3 / 1 / 2002	17.58736327
9 / 1 / 2002	0.00000000
3 / 1 / 2003	23.12255586
9 / 1 / 2003	0.00000000
3 / 1 / 2004	32.58860841
9 / 1 / 2004	0.00000000
3 / 1 / 2005	52.37951374
9 / 1 / 2005	0.00000000
3 / 1 / 2006	100.00000000

DEFINITIONS

"AAR" shall mean the Association of American Railroads, or any successor organization providing similar functions for the interchange of railroad equipment.

"Act" shall have the meaning assigned in Section 1.02 of the Indenture.

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

"After-Tax Basis", shall have the meaning assigned in Section 13.3 of the Participation Agreement.

"Applicable Law" shall mean all applicable laws (foreign or domestic), treaties, judgments, decrees, injunctions, writs and orders of any court, governmental agency or authority and rules, regulations, orders, directives, licenses and permits of any governmental body, instrumentality, agency or authority, including without limitation, all rules and regulations of the United States Department of Transportation and the ICC.

"Appraisal" shall have the meaning specified in Section 5(c) of the Participation Agreement.

"Appraisal Procedure" shall mean the procedure specified in the succeeding sentences for determining an amount or value. If either the Owner Trustee (or the Owner Participant) or the Lessee shall give written notice to the other requesting determination of such amount or value by appraisal, the Owner Participant and the Lessee shall consult for the purpose of appointing a mutually acceptable qualified Independent Appraiser. If such parties shall be unable to agree on an appraiser within 20 days of the first giving of such notice (the "Appraisal Request Date"), such amount or value shall be determined by a panel of three Independent Appraisers, one of whom shall be selected by the Lessee, another of whom shall be selected by the Owner Participant and the third of whom shall be selected by such other two Appraisers or, if such Appraisers shall be unable to

## Schedule X

agree upon a third Appraiser within 10 days of the selection date of the second of such two Appraisers, by the American Arbitration Association; provided, that if either party shall not select its Appraiser within 35 days after the Appraisal Request Date, such amount or value shall be determined solely by the Appraiser selected by the other party. The Appraiser or Appraisers appointed pursuant to the foregoing procedure shall be instructed to determine such amount or value within 45 days after the final appointment of any Appraiser pursuant hereto (but in no event may such determination be made more than 110 days following the Appraisal Request Date), and such determination shall be final and binding upon the parties. If three Appraisers shall be appointed, (a) if the median of the determinations of the Appraisers shall equal the mean of such determinations, such mean shall constitute the determination of the Appraisers, otherwise (b) the determination of the Appraiser that shall differ most from the other two Appraisers shall be excluded, the remaining two determinations shall be averaged and such average shall constitute the determination of the Appraisers. Fees and expenses relating to an Appraisal Procedure shall be payable as follows:

(i) if the Appraisal Procedure is utilized in connection with the exercise of remedies upon the occurrence of an Event of Default or in connection with the possible exercise of a renewal option pursuant to Section 2(b) of the Lease, all such fees and expenses shall be borne by the Lessee;

(ii) if the Appraisal Procedure is utilized in connection with the possible exercise of a purchase option pursuant to Section 2(f) of the Lease, then each party shall bear its respective fees and expenses, provided (A) if an appraisal under the Appraisal Procedure shall be conducted by one Appraiser only, the Lessee shall bear the fees and expenses of such Appraiser, or (B) if an appraisal under the Appraisal Procedure shall be conducted by more than one Appraiser, the Lessee shall bear the fees and expenses of the Appraiser appointed by the Lessee and of the Appraiser appointed jointly by the Appraiser of the Lessee and the Appraiser of the Owner Participant; and provided, further, that if after the utilization of such Appraisal Procedure the Lessee does not exercise such purchase option, then the Lessee shall reimburse the Owner Participant for all fees and expenses paid by the Owner Participant in respect of such Appraisal Procedure; and

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(iii) in all other instances, each party shall bear (A) its respective fees and expenses with respect to any Appraisal Procedure and (B) one-half of the fees and expenses of the Appraisers participating in any Appraisal Procedure.

"Appraiser" shall mean R.L. Banks and Associates, in the case of the Appraisal delivered pursuant to Section 5(c) of the Participation Agreement and otherwise a Person engaged in the business of appraising property who may be employed by or affiliated with the Owner Trustee, the Owner Participant or the Lessee.

"Assumption Event" shall mean the exercise by the Lessee of the purchase option referred to in clause (y) of Section 2(e) of the Lease pursuant to which the Lessee shall assume and become obligated on a recourse basis under all or a portion of the Certificates Outstanding.

"Authorized Person" shall mean (i) with respect to the Owner Trustee, any Person authorized by or pursuant to the organizational documents, the by-laws or any Board Resolution of First Security (whether general or specific) to execute, deliver and take all other actions on behalf of the Owner Trustee in respect of any of the Operative Documents and (ii) with respect to any other entity, any Person authorized by or pursuant to the charter documents, the by-laws or any Board Resolution (in the case of a corporation), partnership agreement (in the case of a partnership), or trust agreement (in the case of a trust) to execute, deliver and take all other actions on behalf of such entity in respect of any of the Operative Documents.

"Basic Rent" shall mean the rent payable throughout the Lease Term pursuant to, and computed in accordance with, Section 9(b) of the Lease.

"Basic Term" with respect to any Unit shall mean the period for which such Unit is leased as provided in Section 2(a) of the Lease, beginning on the Basic Term Commencement Date and ending at 11:59 P.M. (New York City time) on the 15th anniversary of the Basic Term Commencement Date.

"Basic Term Commencement Date" shall mean March 1, 1992.

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"Bill of Sale" shall mean the bill of sale for the Units, dated the Closing Date, executed by the Seller in favor of the Lessor.

"Board of Directors" shall mean, with respect to any Person, either the board of directors of such Person or any duly authorized committee of said board.

"Board Resolution" shall mean, with respect to any Person, a copy of a resolution certified by the secretary or an assistant secretary of such Person to have been duly adopted by the Board of Directors of such Person and to be in full force and effect and not modified or amended on the date of such certification.

"Book Entry Certificates" shall mean a beneficial interest in the Certificates, ownership and transfers of which shall be made through book entries by a Clearing Agency as described in Section 2.08 of the Indenture.

"Business Day" shall mean any day other than a Saturday or Sunday or other day on which the banks in New York, New York, Salt Lake City, Utah, or Baltimore, Maryland, are authorized or obligated to remain closed.

"Business Tax" shall have the meaning assigned in Section 13.2(b)(2) of the Participation Agreement.

"Certificate Owner" shall mean, when used in Section 2.08 of the Indenture, a Person who owns a Book-Entry Certificate.

"Certificate Register" shall have the meaning assigned in Section 2.04 of the Indenture.

"Certificates" shall mean the "8.41% 1991 Equipment Trust Certificates, Series A" (as referred to in Section 2.02 of the Indenture) issued on or prior to the Closing Date and includes any other such Certificates thereafter authenticated and delivered in exchange or substitution therefor as provided for in Sections 2.03 through 2.05 of the Indenture.

"Class I Railroad" shall have the meaning set forth in 49 C.F.R. Part 1201.

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"Clearing Agency" shall mean an organization registered as a "clearing agency" pursuant to Section 17A of the Securities Exchange Act of 1934, as amended.

"Clearing Agency Participant" shall mean a broker, dealer, bank, other financial institution or other Person for whom from time to time a Clearing Agency effects, directly or indirectly, book-entry transfers and pledges of securities deposited with the Clearing Agency.

"Closing" shall mean the simultaneous occurrence of the transactions described in Section 4 of the Participation Agreement.

"Closing Date" shall mean the date, which shall be a Business Day, on which the Closing occurs, provided that in no event shall the Closing occur later than December 31, 1991.

"Closing Notice" shall have the meaning assigned in Section 4(a) of the Participation Agreement.

"Code" shall mean the Internal Revenue Code of 1986, as amended (or any successor federal income tax statute).

"Commitment" shall mean in the case of the Holders, the amount to be released by the Indenture Trustee pursuant to Section 2(b) of the Participation Agreement and, in the case of the Owner Participant, the amount of the investment to be made by the Owner Participant on the Closing Date pursuant to Section 3 of the Participation Agreement.

"DTC" shall mean the Depository Trust Company.

"Deemed Last Utilized Taxes" shall have the meaning assigned in Section 13.2(h) of the Participation Agreement.

"Default" shall mean an event or condition which, with the giving of notice or lapse of time, or both, would constitute an Event of Default.

"Defaulted Payment" shall have the meaning assigned in Section 2.02 of the Indenture.

"Definitive Certificate" shall have the meaning assigned in section 2.08 of the Indenture.

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"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended, or any comparable successor law and the rules issued and regulations promulgated thereunder.

"ERISA Plan" shall have the meaning assigned to such term in Section 1.12 of the Indenture.

"Event of Default" shall mean any of the events referred to in Section 14 of the Lease.

"Event of Loss" shall mean with respect to any Unit any of the following events occurring during the Lease Term:

(i) such Unit suffers an actual or constructive total loss, (ii) such Unit becomes worn out or suffers destruction or damage beyond economic repair or such Unit is rendered permanently unfit for commercial use by the Lessee and for the purpose for which it was designed, as determined in good faith by the Lessee and evidenced by a certificate of the Treasurer or Assistant Treasurer of the Lessee to such effect, (iii) such Unit is taken, condemned or requisitioned for title by any governmental authority, (iv) such Unit is taken, condemned or requisitioned for use by any governmental authority for a period extending beyond the Basic Term and any Renewal Term then in effect or (v) such Unit is lost, stolen or otherwise disappears. The date of such Event of Loss shall be the date of such loss, damage, condemnation, taking, requisition or disappearance, except that for purposes of clause (iv) above, no Event of Loss shall be deemed to have occurred until the earlier of (1) the last day of the Basic Term or any Renewal Term then in effect and (2) the Lessee's declaration of the occurrence of an Event of Loss at any time following twelve months after such taking, condemnation or requisition.

"Event of Loss Notice" shall have the meaning assigned in Section 11(b) of the Lease.

"Excepted Property" shall have the meaning assigned in the Granting Clause of the Indenture.

"Excepted Rights" shall have the meaning assigned in Section 12.01 of the Indenture.

"Fair Market Renewal" shall have the meaning assigned in Section 2(b)(iii) of the Lease.

"Fair Market Renewal Term" shall have the meaning assigned in Section 2(b)(iii)(A) of the Lease.

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"Fair Market Rent" for any Unit shall mean, for any period, the rent for such Unit (excluding any Severable Improvements title to which has vested in the Lessee but assuming that such Unit complies with Section 5 of the Lease) for such period that would be obtained for a lease of such Unit in an arm's-length transaction between an informed and willing owner under no compulsion to lease and an informed and willing lessee, which determination shall be made (i) without deduction for any costs of removal of such Unit from the location of current use and (ii) on the assumption that such Unit is free and clear of all Liens and is in the condition and repair in which it is required to be returned pursuant to Sections 2 and 5 of the Lease (but otherwise on an "as-is" basis); provided, however, that the determination of Fair Market Rent for the purposes of Section 15(c) of the Lease shall be based on the actual condition of such Unit at the time of such determination and shall take into account all Liens on such Unit and any legal impediments to the prompt leasing of such Unit, notwithstanding the provisions of clause (ii) of this sentence.

"Fair Market Sale Value" for any Unit shall mean the sale value of such Unit (excluding any Severable Improvements title to which has vested in the Lessee) that would be obtained in an arm's-length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer-user, which determination shall be made (i) without deduction for any costs of removal of such Unit from the location of current use and (ii) on the assumption that such Unit is free and clear of all Liens and is in the condition and repair in which it is required to be returned pursuant to Sections 2 and 5 of the Lease (but otherwise on an "as-is" basis); provided, however, that the determination of Fair Market Sale Value for purposes of Section 15(c) of the Lease shall be based on the actual condition of such Unit at the time of such determination and shall take into account all Liens on such Unit (other than Owner Encumbrances), and any legal impediments to the prompt transfer of title to such Unit, notwithstanding the provisions of clause (ii) of this sentence.

"Federal Bankruptcy Code" shall mean the Bankruptcy Code of 1978, as amended, 11 U.S.C. §§ 101-1330.

"First Security" shall mean First Security Bank of Utah, National Association, a national banking association, and shall also mean any Person acting as a successor Owner Trustee, in its individual capacity.

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"Government Obligations" shall mean direct obligations of the United States of America which are not callable, redeemable or payable, prior to maturity, in whole or in part, directly or indirectly, by any Person.

"Holder" shall mean the Person in whose name any Certificate is registered on the Certificate Register.

"Home Jurisdiction" shall have the meaning assigned in Section 13.3 of the Participation Agreement.

"ICC" shall mean the Interstate Commerce Commission and any agency or instrumentality of the United States government succeeding to its functions.

"Improvement" shall mean an improvement, structural change, modification or addition to any Unit made after the Closing Date.

"Indemnatee" shall have the meaning assigned in Section 13.1 of the Participation Agreement.

"Indenture" shall mean the Indenture, Mortgage and Security Agreement dated as of October 15, 1991, among the Owner Trustee, the Indenture Trustee, and the Lessee, as the same may be amended, modified or supplemented in accordance with the provisions thereof and of the Participation Agreement.

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

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

"Indenture Estate Documents" shall have the meaning set forth in Clause Second of the Granting Clause of the Indenture.

"Indenture Event of Default" shall mean any of the events specified in Section 6.01 of the Indenture.

"Indenture Trustee" shall mean Mercantile-Safe Deposit and Trust Company, a Maryland trust company, together with any successors, permitted assigns and separate trustees and co-trustees, not in its individual capacity but solely as Indenture Trustee under the Indenture.

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"Independent" shall mean, when used with respect to any specified Person, such a Person who (1) is in fact independent, (2) does not have any direct financial interest or any material indirect financial interest in First Security, the Owner Trustee, the Owner Participant or the Lessee or in any Affiliate of any of them and (3) is not connected with First Security, the Owner Trustee, the Owner Participant or the Lessee or any such Affiliate as an officer, employee, promoter, underwriter, trustee, partner, director or person performing similar functions. Whenever it is provided that any Independent Person's opinion or certificate shall be furnished to the Indenture Trustee, such Person shall be appointed by the Lessee and approved by the Indenture Trustee in the exercise of reasonable care and such opinion or certificate shall state that the signer has read this definition and that the signer is Independent within the meaning thereof.

"Independent Investment Banker" shall mean an independent investment banking institution of national standing appointed by the Lessee on behalf of the Owner Trustee; provided, that if the Indenture Trustee shall not have received written notice of such appointment at least ten days prior to the relevant Redemption Date or if an Event of Default shall have occurred and be continuing, "Independent Investment Banker" shall mean such an institution appointed by the Indenture Trustee.

"Ineligible Transferee" shall have the meaning assigned in Section 2.08(d) of the Indenture.

"Interim Rent" shall mean the rent payable in respect of the Interim Term pursuant to, and computed in accordance with, Section 9(a) of the Lease.

"Interim Term" shall mean for any Unit the period from the Closing Date to and including the day immediately preceding the Basic Term Commencement Date.

"Lease" shall mean Lease Agreement dated as of October 15, 1991, between the Lessee and the Lessor, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof and of the Indenture.

"Lease and Indenture Supplement" shall mean the Lease and Indenture Supplement among the Owner Trustee, the Lessee and the Indenture Trustee, dated the Closing Date, substantially in the form of Exhibit A to the Lease.

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"Lease Term" shall mean the Interim Term plus the Basic Term, plus all Renewal Terms actually entered into.

"Lessee" shall mean CSX Transportation, Inc., a Virginia corporation, together with its successors and permitted assigns.

"Lessor" shall mean the Owner Trustee, together with its successors and permitted assigns as Owner Trustee under the Trust Agreement.

"Lessor's Cost" for a Unit shall mean the amount specified therefor in the Lease and Indenture Supplement.

"Letter of Representations" shall mean the agreement among Lessee, the Indenture Trustee and the initial Clearing Agency.

"Liabilities" shall have the meaning assigned in Section 13.1 of the Participation Agreement.

"Lien" shall mean any mortgage, pledge, lien, security interest, charge, claim or other encumbrance or right of others.

"Net Return" shall mean the Owner Participant's nominal after-tax book yield, total after-tax cash flows, internal rate-of-return as calculated by it and after-tax cash flows as a percentage of equity, all calculated using the same assumptions and methods utilized by the Owner Participant in computing the schedules of Basic Rent, Stipulated Loss Values and Termination Values delivered on the Closing Date (or if such schedules are adjusted pursuant to Section 9(f) of the Lease, in computing such adjusted schedules) and, when used in connection with an adjustment pursuant to Section 9(f)(iv) of the Lease relating to a refinancing, shall also be calculated so as to preserve the Owner Participant's aggregate book earnings attributable to the transactions contemplated by the Participation Agreement (determined as above provided) over the five year period preceding such adjustment.

"Nonseverable Improvement" shall mean, at any time, an Improvement that shall not be "readily removable [from a Unit] without causing material damage to [such Unit]" within the meaning of Revenue Procedure 79-48 promulgated by the Internal Revenue Service or other similar law, regulation or procedure then in effect or any Improvement required by law.

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"Non-U.S. Person" shall mean any Person other than (i) a citizen or resident of the United States, as defined in section 7701(a)(9) of the Code (for purposes of this definition, the "United States"), (ii) a corporation, partnership or other entity created or organized under the laws of the United States or any political subdivision thereof or therein or (iii) any estate or trust that is subject to United States federal income taxation regardless of the source of its income.

"Notice" shall have the meaning assigned in Section 19 of the Participation Agreement.

"Obligations" shall have the meaning assigned in the Granting clause of the Indenture.

"Offered Interest" shall have the meaning assigned in Section 25 of the Participation Agreement.

"Offered Interest Seller" shall have the meaning assigned in Section 25 of the Participation Agreement.

"Officer's Certificate" shall mean with respect to any Person, a certificate signed by the Chairman of the Board, the President or a Vice President of such Person or any Authorized Person of such Person.

"Operative Documents" shall mean the Participation Agreement, the Trust Agreement, the Indenture, the Certificates, the Lease, the Lease and Indenture Supplement and the Bill of Sale.

"Opinion of Counsel" shall mean a written opinion of counsel, which opinion shall be satisfactory in form and substance, and which counsel shall be acceptable, to the Indenture Trustee (or such other Person to whom such opinion is to be addressed pursuant to any of the Operative Documents).

"Outstanding" when used with respect to the Certificates shall mean, as of the date of determination, all the Certificates theretofore authenticated and delivered under the Indenture, except:

- (1) Certificates theretofore cancelled by the Indenture Trustee or delivered to the Indenture Trustee for cancellation;

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(2) Certificates for whose payment or redemption money in the necessary amount has been theretofore deposited with the Indenture Trustee, provided, that, if such Certificates are to be redeemed, notice of such redemption has been duly given pursuant to the Indenture or provision therefor satisfactory to the Indenture Trustee has been made;

(3) Certificates in exchange for or in lieu of which other Certificates have been authenticated and delivered under the Indenture; and

(4) Certificates alleged to have been destroyed, lost or stolen which have been paid as provided in Section 2.05 of the Indenture;

provided, however, that in determining whether the Holders of the requisite principal amount of Certificates Outstanding have given any request, demand, authorization, direction, notice, consent or waiver hereunder, or concurred in any thereof, Certificates owned by the Owner Participant, the Owner Trustee or the Lessee, or any Affiliate of any of them, shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Indenture Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, waiver or concurrence, only Certificates that the Indenture Trustee knows from the Certificate Register to be so owned shall be so disregarded. Certificates so owned that have been pledged in good faith shall be regarded as Outstanding for such purposes if the pledgee establishes to the satisfaction of the Indenture Trustee the pledgee's right so to act with respect to such Certificates and that the pledgee is not the Owner Participant, the Owner Trustee or the Lessee, or any Affiliate of any of them.

"Overdue Rate" shall mean (i), with respect to any amount that is or will be distributable to the Holders pursuant to the terms of the Indenture, the applicable rate per annum set forth on the face of the Certificates held by such Holder plus 1% and (ii) with respect to any other amount, the Prime Rate plus 2%, in each case, computed on the basis of a 360-day year of twelve 30-day months.

"Owner Encumbrances" shall mean any Liens against any part of the Indenture Estate or the Trust Estate that result from acts of, or any failure to act by, or as a result of claims (including any taxes) against, First Security, the Owner Trustee or the Owner Participant arising out of any event or condition unrelated to (x) the ownership of a Unit, (y) the administration

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of the Trust Estate or (z) the transactions contemplated by the Operative Documents, excluding Liens, security interest and encumbrances arising from any tax for which the Lessee is obligated to indemnify under the Participation Agreement, other than any such tax for which the Lessee has already made full indemnification pursuant to such agreements.

"Owner Participant" shall mean CSX Intermodal, Inc., a Delaware corporation, together with its successors and permitted assigns.

"Owner Trustee" shall mean First Security, in its capacity as trustee under the Trust Agreement, together with its successors and permitted assigns as Owner Trustee under the Trust Agreement.

"Owner Trustee Request" shall mean a written request signed in the name of the Owner Trustee by an Authorized Person, consented to by the Lessee, and delivered to the Indenture Trustee together with a form of any writing to be executed by the Indenture Trustee pursuant to such request.

"Participation Agreement" shall mean the Participation Agreement dated as of October 15, 1991 among the Lessee, the Owner Participant, the Owner Trustee and the Indenture Trustee, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof and of the Indenture.

"Paying Agent" shall have the meaning set forth in Section 2.02 of the Indenture.

"Payment Date" shall mean each March 1 and September 1 of each year occurring during the Basic Term and any Renewal Term, provided that if any such date shall not be a Business Day, then "Payment Date" shall mean the next succeeding Business Day.

"Percentage Commitment" of the Owner Trustee and the Holders in respect of the Units shall mean the percentage set forth opposite "Owner Participant" and "Holders", respectively, in the column captioned "Percentage Commitment" of Schedule 1 to the Participation Agreement.

"Permitted Encumbrances" shall mean (a) the rights of the Indenture Trustee under the Indenture, (b) the rights of the Lessee under the Lease, and the rights of any sublessee under any subleases of any Unit that are permitted by the terms of the

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Lease, (c) the rights of the Owner Trustee and the Owner Participant under the Trust Agreement, which rights are subject to the Liens and security interests created by the Indenture, (d) liens for taxes either not yet due or being contested by the Lessee in good faith by appropriate proceedings, diligently prosecuted or appealed which do not involve a significant risk of a sale, forfeiture or loss of a Unit and (e) undetermined or inchoate materialmen's, mechanic's, workmen's, repairmen's or employees' Liens or other like Liens arising in the ordinary course of business and security obligations which are not delinquent or which shall have been suspended or which do not involve a significant risk of sale, forfeiture or loss of a Unit or which are being contested by the Lessee in good faith by appropriate proceedings diligently prosecuted or appealed.

"Permitted Investments" shall mean (i) direct obligations of the United States of America and agencies thereof for which the full faith and credit of the United States of America is pledged, (ii) obligations fully guaranteed by the United States of America, (iii) certificates of deposit issued by, or bankers' acceptances of, or time deposits with, any bank, trust company or national banking association incorporated or doing business under the laws of the United States of America or one of the States thereof having combined capital and surplus and retained earnings of at least \$500,000,000 (including the Indenture Trustee and the Owner Trustee if such conditions are met), (iv) commercial paper of companies, banks, trust companies, or national banking associations incorporated or doing business under the laws of the United States of America or one of the States thereof and in each case having a rating assigned to such commercial paper by Standard & Poor's Corporation or Moody's Investors Service, Inc. (or, if neither such organization shall rate such commercial paper at any time, by any nationally recognized rating organization in the United States of America) equal to the highest rating assigned by such organization, and (v) repurchase agreements with any financial institution having a combined capital and surplus of at least \$750,000,000 fully collateralized by obligations of the type described in clauses (i) through (iv) above, provided, however, that no investment shall be eligible as, or included within, the definition of the term, "Permitted Investments" unless the final maturity date of any such obligation or the date on which any such time deposit may be withdrawn shall not be later than 90 days after the date of purchase or date of return, as the case may be, of such obligation or the making of such time deposit. If all of the above investments are unavailable, the entire amount to be

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invested may be used to purchase Federal Funds from an entity described in (iii) of the preceding sentence.

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

"Premium" shall mean as to the principal amount or portion thereof of any Certificate to be redeemed on a particular Redemption Date, the amount (as determined by an Independent Investment Banker), if any, by which the sum of such principal amount or portion thereof together with accrued but unpaid interest thereon to such Redemption Date is exceeded by the present value (computed in accordance with generally accepted financial practices on a semiannual basis at a discount rate equal to the applicable Treasury Yield) as at such Redemption Date of the remaining payments of interest on and installments of such principal amount or portion thereof as required by the terms of such Certificate and of the Indenture.

"Prime Rate" shall mean the rate of interest publicly announced from time to time by Citibank, N.A. in New York as its "base rate."

"Reasonable Basis" for a position shall exist if tax counsel may properly advise reporting such position on a tax return in accordance with Formal Opinion 85-352 issued by the Standing Committee on Ethics and Professional Responsibility of the American Bar Association.

"Record Date" means, as used with respect to any Payment Date (except a date for payment for defaulted interest), February 15 for March 1 Payment Dates and August 15 for September 1 Payment Dates and means, as used with respect to any Redemption Date (other than in connection with clause (f) of Section 4.01 of the Indenture) (i) if the Redemption Date is also a Payment Date, the Record Date specified above relating to such Payment Date and (ii) if the Redemption Date is not a Payment Date, the date which is 15 days prior to such Redemption Date, whether or not such date is a Business Day.

"Redelivery Location" shall have the meaning assigned in Section 2(c) of the Lease.

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"Redemption Date" when used with respect to any Certificate to be redeemed shall mean the date fixed for such redemption pursuant to the Indenture.

"Registrar" shall have the meaning assigned in Section 2.04 of the Indenture.

"Refinancing Date" shall have the meaning assigned in Section 20 of the Participation Agreement.

"Remaining Weighted Average Life" means, for any Certificate, as of any determination date, the number of years obtained by dividing (a) the sum of the products obtained by multiplying (i) the amount of each of the remaining installment payments of principal, including the payment due on the maturity date of such Certificate, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such determination date, and the date on which such installment payment is scheduled to be made, by (b) the then outstanding principal amount of such Certificate.

"Renewal Term" shall mean the period of any extension of the Basic Term (or a prior Renewal Period) as provided in Section 2(b) of the Lease.

"Renewal Term Commencement Date" shall have the meaning assigned in Section 2(b) of the Lease.

"Rent" shall mean the Interim Rent, Basic Rent, Fair Market Rent and Supplemental Rent, collectively.

"Replacement Unit" shall mean a unit of standard gauge railroad equipment having a value and utility substantially equivalent to that (prior to the occurrence of an Event of Loss) of the Unit with respect to which an Event of Loss has occurred and which is being replaced pursuant to Section 11(c) of the Lease.

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

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"SEC" shall mean the Securities and Exchange Commission.

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Seller" shall mean Raceland Car Corporation, together with its successors and permitted assigns.

"Severable Improvement" shall mean any Improvement other than a Nonseverable Improvement.

"Stipulated Loss Value" with respect to any Unit subjected to the terms of the Lease pursuant to the Lease and Indenture Supplement as of any Payment Date shall mean an amount determined by multiplying Lessor's Cost for such Unit by the percentage specified in Schedule 3 to the Lease and Indenture Supplement opposite such Payment Date; provided, however, that, notwithstanding any provision of the Lease (including but not limited to the adjustments to be made pursuant to Section 9 of the Lease), "Stipulated Loss Value" as of any Payment Date, plus the Basic Rent in respect of such Unit payable on such Payment Date (if and to the extent Basic Rent is then being paid in arrears) shall in no event be less than a sum sufficient to pay a pro rata portion of the aggregate unpaid principal amount of the Certificates Outstanding on such Payment Date together with interest thereon accrued to such Payment Date as determined pursuant to the Indenture.

"Supplemental Rent" shall mean any and all amounts (other than Interim Rent and Basic Rent), that the Lessee assumes the obligation to pay or agrees to pay under the Lease or the Participation Agreement to the Owner Trustee, the Owner Participant or others, including amounts payable as indemnity payments, payments of Stipulated Loss Value and Termination Value under the Lease, Premium on the Certificates and all amounts payable by the Lessee pursuant to Section 9 of the Lease.

"TIA" shall mean the Trust Indenture Act of 1939, as in effect from time to time.

"Tax" shall have the meaning assigned in Section 13.2(a) of the Participation Agreement.

"Tax Forms" shall have the meaning assigned in Section 13.2(b) (8) of the Participation Agreement.

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"Tax Indemnitee" shall have the meaning assigned in Section 13.2(a) of the Participation Agreement.

"Termination Date" shall have the meaning assigned in Section 12(a) of the Lease.

"Termination Value" with respect to any Unit subjected to the terms of the Lease pursuant to the Lease and Indenture Supplement as of any Payment Date shall mean an amount determined by multiplying Lessor's Cost for such Unit by the percentage specified in Schedule 4 to such Lease and Indenture Supplement opposite such Payment Date; provided, however, that, notwithstanding any provision of the Lease (including but not limited to the adjustments to be made pursuant to Section 9 of the Lease), "Termination Value" as of any Payment Date, plus the Basic Rent in respect of such Unit payable on such Payment Date (if and to the extent Basic Rent is then being paid in arrears) and plus the premium, if any, payable on such Payment Date shall in no event be less than a sum sufficient to pay a pro rata portion of the aggregate unpaid principal amount of the Certificates Outstanding on such Payment Date together with interest thereon accrued to such Payment Date and the Premium, if any, as determined pursuant to the Indenture.

"Transaction Costs" shall have the meaning assigned in Section 17 of the Participation Agreement.

"Transfer" shall have the meaning assigned in Section 22 of the Participation Agreement.

"Treasury Yield" means the average yield to stated maturity of the most comparable United States Treasury Notes or Bonds as identified by the Independent Investment Banker, corresponding to the Remaining Weighted Average Life of such Certificates or if there is no such corresponding maturity, an interpolation of maturities, in each case as determined by the Independent Investment Banker, based upon the average of the yields to stated maturity determined from the bid prices as of 10:00 A.M. and 2:00 P.M. (New York City time) on the second Business Day preceding the applicable Redemption Date.

"Trust Agreement" shall mean the Trust Agreement dated as of October 15, 1991, between First Security and the Owner Participant as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof, of the Indenture and of the Participation Agreement.

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"Trust Estate" shall have the meaning assigned to it in Section 1(c) of the Trust Agreement.

"Type" shall mean Units having a given AAR mechanical designation.

"Unit" shall mean a unit of railroad equipment listed on Schedule E to the Participation Agreement and, after an Event of Loss with respect to a Unit, a Replacement Unit (if any), in each case subjected to the Lease pursuant to Section 2(a) or 11(c) thereof, and including any item of property constituting a part of such Unit or Replacement Unit.

"Unit Return Notice" shall have the meaning assigned in Section 2(c) of the Lease.

"Verifying Accountant" shall mean an accountant selected by the Owner Participant and reasonably acceptable to the Lessee (it being understood that the representation of, or a conflict in representing, the Owner Participant or the Lessee is relevant in determining the reasonableness of such acceptance). Such accountant (i) shall not be permitted to review the documents, programs and procedures used to calculate the Owner Participant's internal rate of return but shall have access to all other relevant documents, programs and procedures of the Owner Participant and (ii) shall execute a confidentiality agreement with respect to the subject matter of its review and (iii) shall return to the Owner Participant any materials of the Owner Participant used by such Verifying Accountant in the course of such verification.