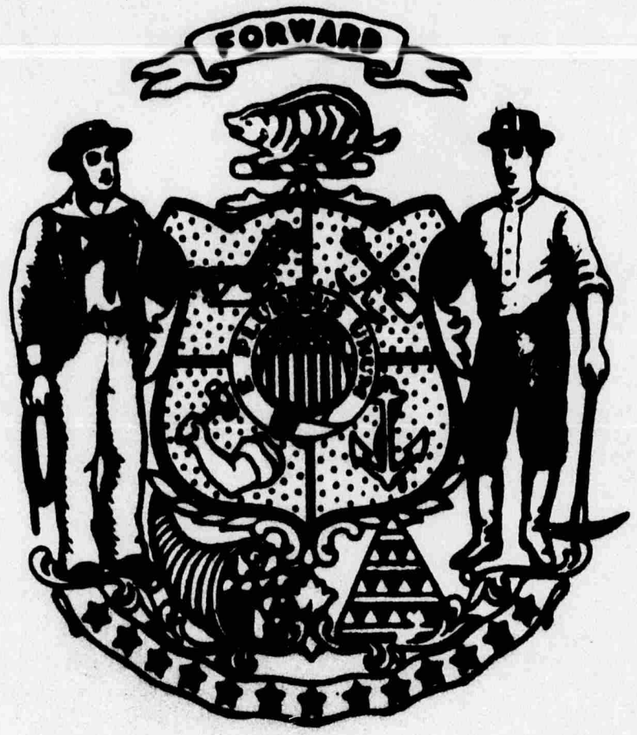
REEL 30
NO. 39

STATE OF WISCONSIN



SECRETARY OF STATE

RAILROAD MORTGAGES

VOL. 39

414.53

INDEXED

Deed Record No. , County,

1659 words

TRUSTEES' DEED

HENRY A. SCANDRETT, WALTER J. CUMMINGS, AND GEORGE I. HAIGHT, as Trustees

TO

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

As of 12:01 A. M., December 1, 1945

Filed for record this.....day of.....

A. D. 1945, at.....o'clock.....M.

.....
Recorder or Clerk or Auditor or Register of Deeds

....., Deputy

Fee $.....

TRUSTEES' DEED

KNOW ALL MEN BY THESE PRESENTS, that the Grantors, HENRY A. SCANDRETT, WALTER J. CUMMINGS and GEORGE I. HAIGHT, as Trustees of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a railroad corporation of the State of Wisconsin (said corporation being referred to below as the "Debtor"), duly appointed by the District Court of the United States for the Northern District of Illinois, Eastern Division, in proceedings for the reorganization of a railroad under Section 77 of the Bankruptcy Act, entitled "In the Matter of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, No. 60463" (hereinafter referred to as the "Trustees"), being in possession of and operating the property of the Debtor in the States of Wisconsin, Michigan, Indiana, Illinois, Minnesota, Iowa, Nebraska, Missouri, Kansas, North Dakota, South Dakota, Montana, Idaho and Washington, for and in consideration of and compliance with the orders and directions of the Court in the reorganization proceedings, have remised, released, transferred, assigned, conveyed, quitclaimed and set over, and by these presents do remise, release, transfer, assign, convey, quitclaim and set over unto the Grantee, CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a railroad corporation of the State of Wisconsin (the reorganized corporation under the Plan of Reorganization hereinafter referred to), all and singular the following described property, rights, privileges and franchises:

First. All of the right, title and interest of the Trustees in and to all and singular the lines of railroad now owned or operated by the Trustees, including all main lines, branch lines, yard, side, industrial, switch, connecting, terminal, passing and shop tracks and turnouts, and all undivided interests and leasehold interests therein.

Second. All of the right, title and interest of the Trustees in and to all tracts and parcels of land, easements, rights of way and other real property and interests in real property of whatever kind or description now owned or possessed by the Trustees.

Third. All right, title and interest of every name and nature, legal or equitable, of the Trustees in and to all mechanical equipment, machinery, tools, implements, furniture, supplies, materials, and other chattels now owned or possessed by the Trustees.

Fourth. All estate, right, title and interest of every kind and nature, legal or equitable, of the Trustees in and to all locomotives, however propelled or operated, passenger, freight, mail, express, baggage or other railway cars, work cars, buses, tractors, trailers, trucks, automobiles, and other vehicles and conveyances for the transportation of passengers, employees, freight, mail, express, baggage and materials, including all right, title and interest now vested in them or in and to any and all such property leased to or held or possessed by the Trustees or the Debtor under any equipment trust agreement, conditional sale agreement, rental agreement, lease, chattel mortgage or other instrument.

Fifth. All right, title and interest of the Trustees in and to securities of other corporations.

Sixth. All estate, right, title, interest, terms and remainders of terms, franchises, privileges and rights of action of whatsoever name and nature in law or in equity of the Trustees in and to all trackage, terminal or operating contracts, agreements, leases, leasehold rights, joint facilities and other rights and privileges.

Seventh. All right, title and interest of every name and nature of the Trustees in and to any and all telegraph, telephone or other communication facilities, and the rights and

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agreements covering the rights to the use of any and all telegraph, telephone or other communication facilities along the lines of railroad now owned or operated by Trustees.

Eighth. Any and all rights, powers, franchises, privileges and immunities now owned or possessed by the Trustees which may be necessary for or appurtenant to the use, operation, management, maintenance, renewal, alteration or improvement of the lines of railroad or of any other property now owned by them.

Ninth. All right, title and interest of the Trustees in all cash, bills, notes or accounts receivable, contracts, shares of stock, bonds and other obligations.

Tenth. All right, title and interest of the Trustees in all choses in action, including all claims and demands and all causes of action or pending suits, together with full power, including power of substitution and revocation, for the Trustees, and in their names or in the name of either of them or in the name of the Grantee, but for the sole use of the Grantee, to ask, demand, sue for, prosecute suits for, collect, receive, compound, or give acquittances for any of the same.

TOGETHER with all other properties of any and every kind or character whatsoever and wheresoever situated, real, personal or mixed, at the date of the execution and delivery of this instrument belonging to the Trustees; all tolls, revenues, earnings, income, rents, issues, and profits of said properties; all of the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in equity as in law, of the Trustees of, in, and to said properties and every part and parcel thereof and of, in, and to the appurtenances and franchises appertaining thereto; all additions, improvements, and betterments to or upon or in connection with said properties; and all of the lands, tenements, hereditaments, reversions, remainders, rights, privileges, immunities, and benefits appertaining to said properties or any of the same.

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To have and to hold, possess, and enjoy all and singular of the foregoing unto the Grantee, its successors and assigns, to its and their own proper use and benefit forever.

This conveyance is made by the Grantors pursuant to a Plan of Reorganization of Chicago, Milwaukee, St. Paul and Pacific Railroad Company confirmed by order of the District Court of the United States for the Northern District of Illinois, Eastern Division, in the aforesaid reorganization proceedings (which order of confirmation made final adjudication that the equity of the stockholders of the Debtor has no value and that said stockholders are not entitled to participate in the Plan of Reorganization); and this instrument is executed in connection with and for the purpose of consummating said Plan of Reorganization and pursuant to the authorization and direction of, and subject to the terms, conditions and provisions of, the order of consummation entered by the Court in said reorganization proceedings on November 26, 1945.

This instrument is executed by, and shall be binding upon, the Grantors, not as individuals, but solely as Trustees of the property of the Debtor, for the uses and purposes above set forth and referred to, and as contemplated and comprehended by the aforesaid order of consummation, and, as provided therein, shall be effective as of 12:01 A. M., Central Standard Time, on the first day of December, 1945.

In order to facilitate the recording of this instrument in different counties and states, more than one counterpart hereof has been executed, and each fully executed counterpart hereof shall be of full force and effect in like manner and to like extent as if it in fact had been the sole original executed instrument.

IN WITNESS WHEREOF, Henry A. Scandrett, Walter J. Cummings and George I. Haight, as such Trustees, and not as

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individuals, have hereunto set their hands and seals this 30th day of November, 1945.

Henry A. Scandrett (L. S.)

Walter J. Cummings (L. S.)

Geo. I. Haight

As Trustees of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor.

In the Presence of:

Edwin O. Adams

Ruth E. Hall

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STATE OF ILLINOIS }
COUNTY OF COOK } ss.

On this 30th day of November, in the year 1945, before me, Henry L. Fortier, a Notary Public in and for the State and County aforesaid, personally appeared Henry A. Scandrett, Walter J. Cummings, and George I. Haight, to me personally known and known to me to be the Trustees of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, and personally known to me to be the persons described in ar who executed the foregoing instrument as such Trustees, and severally acknowledged that they signed, sealed and delivered the foregoing instrument as Trustees of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, and as their free and voluntary act and deed as such Trustees, for the uses and purposes therein set forth.

And at the same time said Henry A. Scandrett, Walter J. Cummings, and George I. Haight, being by me first duly sworn, did severally depose and say that they respectively reside at 425 Grove Street, in the City of Evanston, 1500 North Lake Shore Drive, in the City of Chicago, and 1000 Lake Shore Drive, in the City of Evanston, all in the State of Illinois; that said Chicago, Milwaukee, St. Paul and Pacific Railroad Company is a railroad corporation of the State of Wisconsin; that the property of said corporation is under the

STATE OF ILLINOIS,) SS.
COOK COUNTY.)

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, DO HEREBY CERTIFY that I am the lawful custodian of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of magistracy, that HENRY L. FORTIER whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, was, at the time of taking such proof of acknowledgment, a Notary Public in and for Cook County, duly commissioned, sworn and acting as such and authorized to take acknowledgments and proofs of deeds of conveyances of lands, tenements or hereditaments, in said State of Illinois, and to administer oaths; all of which appears from the records and files in my office; that I am well acquainted with the handwriting of said Notary and verily believe that the signature to the said proof of acknowledgment is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County of Cook at my office in the City of Chicago, in the said County, this 5 day of Dec. 1945.

(COUNTY CLERK SEAL) MICHAEL J. FLYNN County Clerk

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1110 Words

SATISFACTION AND RELEASE

THE NATIONAL CITY BANK OF NEW YORK AND WILLIAM W. HOFFMAN, as Trustees

TO

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

Adjustment Mortgage

Filed for record this.....day of.....

A. D. 1945, at.....o'clock.....M.

.....
Recorder or Clerk or Auditor or Register of Deeds

....., Deputy

Fee $.....

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THE NATIONAL CITY BANK OF NEW YORK
and WILLIAM W. HOFFMAN,
As Trustees

SATISFACTION AND RELEASE
of
Chicago, Milwaukee, St. Paul and Pacific
Railroad Company

ADJUSTMENT MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, that:

(1) THE NATIONAL CITY BANK OF NEW YORK, a national banking association, and WILLIAM W. HOFFMAN, of the City and State of New York, are Trustees under that certain indenture of mortgage and deed of trust executed by Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a corporation of the State of Wisconsin, to The National City Bank of New York and William W. Hoffman, as Trustees, dated as of February 2, 1925, as supplemented and amended from time to time (hereinafter referred to as the "Adjustment Mortgage"), under which there are issued and outstanding Chicago, Milwaukee, St. Paul and Pacific Railroad Company Five Per Cent. Convertible Adjustment Mortgage Gold Bonds, due January 1, 2000, in the aggregate principal amount of $182,873,693.

(2) A Plan of Reorganization of said Chicago, Milwaukee, St. Paul and Pacific Railroad Company has been confirmed by the District Court of the United States for the Northern District of Illinois, Eastern Division, in proceedings for the reorganization of a railroad under Section 77 of the Bankruptcy Act, entitled "In the Matter of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, No. 60463."

(3) Said District Court of the United States for the Northern District of Illinois, Eastern Division, by the consummation order entered in said reorganization proceedings on November 26, 1945, has declared the Adjustment Mortgage to be null and void, and the lien thereof cancelled and released, as of 12:01 A. M., on December 1, 1945, and has ordered and directed the undersigned The National City Bank of New York and William W. Hoffman, as such Trustees, in confirmation of the termination of said Adjustment Mortgage and the release of the lien thereof, to execute and deliver this instrument of satisfaction and release.

WHEREFORE, in consideration of and compliance with the orders and directions of the Court in said reorganization proceedings, the undersigned The National City Bank of New York and William W. Hoffman, as such Trustees, do hereby: (1) remise, release, convey and quitclaim unto Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a corporation of the State of Wisconsin, and its successors and assigns, all estate, right, title, interest, claim and demand whatsoever which they or either of them may have acquired under and by virtue of or arising from the Adjustment Mortgage in and to all property of every kind or character whatsoever and wheresoever situated, real, personal or mixed, conveyed or intended to be conveyed by the Adjustment Mortgage, all to the same effect as if herein fully set forth; (2) acknowledge full satisfaction and discharge of the Adjustment Mortgage and full discharge of all rights, claims and demands which they, or either of them, as such Trustees may have acquired by virtue of the Adjustment Mortgage; and (3) consent and direct that the Adjustment Mortgage be discharged of record, both as a real estate mortgage and as a chattel mortgage, and authorize the recording officer of

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agreements covering the rights to the use of any and all telegraph, telephone or other communication facilities along the lines of railroad now owned or operated by Trustees.

Eighth. Any and all rights, powers, franchises, privileges and immunities now owned or possessed by the Trustees which may be necessary for or appurtenant to the use, operation, management, maintenance, renewal, alteration or improvement of the lines of railroad or of any other property now owned by them.

Ninth. All right, title and interest of the Trustees in all cash, bills, notes or accounts receivable, contracts, shares of stock, bonds and other obligations.

Tenth. All right, title and interest of the Trustees in all choses in action, including all claims and demands and all causes of action or pending suits, together with full power, including power of substitution and revocation, for the Trustees, and in their names or in the name of either of them or in the name of the Grantee, but for the sole use of the Grantee, to ask, demand, sue for, prosecute suits for, collect, receive, compound, or give acquittances for any of the same.

TOGETHER with all other properties of any and every kind or character whatsoever and wheresoever situated, real, personal or mixed, at the date of the execution and delivery of this instrument belonging to the Trustees; all tolls, revenues, earnings, income, rents, issues, and profits of said properties; all of the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in equity as in law, of the Trustees of, in, and to said properties and every part and parcel thereof and of, in, and to the appurtenances and franchises appertaining thereto; all additions, improvements, and betterments to or upon or in connection with said properties; and all of the lands, tenements, hereditaments, reversions, remainders, rights, privileges, immunities, and benefits appertaining to said properties or any of the same.

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To have and to hold, possess, and enjoy all and singular of the foregoing unto the Grantee, its successors and assigns, to its and their own proper use and benefit forever.

This conveyance is made by the Grantors pursuant to a Plan of Reorganization of Chicago, Milwaukee, St. Paul and Pacific Railroad Company confirmed by order of the District Court of the United States for the Northern District of Illinois, Eastern Division, in the aforesaid reorganization proceedings (which order of confirmation made final adjudication that the equity of the stockholders of the Debtor has no value and that said stockholders are not entitled to participate in the Plan of Reorganization); and this instrument is executed in connection with and for the purpose of consummating said Plan of Reorganization and pursuant to the authorization and direction of, and subject to the terms, conditions and provisions of, the order of consummation entered by the Court in said reorganization proceedings on November 26, 1945.

This instrument is executed by, and shall be binding upon, the Grantors, not as individuals, but solely as Trustees of the property of the Debtor, for the uses and purposes above set forth and referred to, and as contemplated and comprehended by the aforesaid order of consummation, and, as provided therein, shall be effective as of 12:01 A. M., Central Standard Time, on the first day of December, 1945.

In order to facilitate the recording of this instrument in different counties and states, more than one counterpart hereof has been executed, and each fully executed counterpart hereof shall be of full force and effect in like manner and to like extent as if it in fact had been the sole original executed instrument.

IN WITNESS WHEREOF, Henry A. Scandrett, Walter J. Cummings and George I. Haight, as such Trustees, and not as

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individuals, have hereunto set their hands and seals this 30th day of November, 1945.

Henry A. Scandrett (L. S.)

Walter J. Cummings (L. S.)

George I. Haight (L. S.)

As Trustees of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor.

In the Presence of:

Edwin O. Adams

Ruth E. Hall

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STATE OF ILLINOIS } ss.
COUNTY OF COOK }

On this 30th day of November, in the year 1945, before me, Henry L. Fortier, a Notary Public in and for the State and County aforesaid, personally appeared Henry A. Scandrett, Walter J. Cummings, and George I. Haight, to me personally known and known to me to be the Trustees of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, and personally known to me to be the persons described in ar who executed the foregoing instrument as such Trustees, and severally acknowledged that they signed, sealed and delivered the foregoing instrument as Trustees of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, and as their free and voluntary act and deed as such Trustees, for the uses and purposes therein set forth.

And at the same time said Henry A. Scandrett, Walter J. Cummings, and George I. Haight, being by me first duly sworn, did severally depose and say that they respectively reside at 425 Grove Street, in the City of Evanston, 1500 North Lake Shore Drive, in the City of Chicago, and 1000 Lake Shore Drive, in the City of Evanston, all in the State of Illinois; that said Chicago, Milwaukee, St. Paul and Pacific Railroad Company is a railroad corporation of the State of Wisconsin; that the property of said corporation is under the jurisdiction and control of the District Court of the United States for the Northern District of Illinois, Eastern Division, in proceedings for the reorganization of a railroad under Section 77 of the Bankruptcy Act, entitled "In the Matter of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, No. 60463"; that they are, and at the time of the execution and delivery of the foregoing instrument were, the duly appointed and acting Trustees of the property of said Chicago, Milwaukee, St. Paul and Pacific Railroad Company in said proceedings and in possession of and operating said

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property and vested with the title thereto as such Trustees; and that they signed, sealed, executed, and delivered the foregoing instrument pursuant to the authorization and direction of the Court in said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal, this 30th day of November, 1945.

Henry L. Fortier

HENRY L. FORTIER,
Notary Public in and for the State of Illinois, County of Cook.
Residing at Chicago, therein.
My Commission expires February 26, 1948.

(NOTARIAL SEAL)

State of Wisconsin } ss.
DEPARTMENT OF STATE

Received this 5th day of December A. D. 1945 at 4:15 o'clock P.M. and recorded in Vol. 39 of Railroad Mortgages on pages 1-2, incl.

Robert C. Zimmerman
Assistant Secretary of State

INDEXED

1110 Words

SATISFACTION AND RELEASE

THE NATIONAL CITY BANK OF NEW YORK AND WILLIAM W. HOFFMAN, as Trustees

TO

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

Adjustment Mortgage

Filed for record this.....day of.....

A. D. 1945, at.....o'clock.....M.

.....
Recorder or Clerk or Auditor or Register of Deeds

....., Deputy

Fee $.....

THE NATIONAL CITY BANK OF NEW YORK
and WILLIAM W. HOFFMAN,
As Trustees

SATISFACTION AND RELEASE
of
Chicago, Milwaukee, St. Paul and Pacific
Railroad Company

ADJUSTMENT MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, that:

(1) THE NATIONAL CITY BANK OF NEW YORK, a national banking association, and WILLIAM W. HOFFMAN, of the City and State of New York, are Trustees under that certain indenture of mortgage and deed of trust executed by Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a corporation of the State of Wisconsin, to The National City Bank of New York and William W. Hoffman, as Trustees, dated as of February 2, 1925, as supplemented and amended from time to time (hereinafter referred to as the "Adjustment Mortgage"), under which there are issued and outstanding Chicago, Milwaukee, St. Paul and Pacific Railroad Company Five Per Cent. Convertible Adjustment Mortgage Gold Bonds, due January 1, 2000, in the aggregate principal amount of $182,873,693.

(2) A Plan of Reorganization of said Chicago, Milwaukee, St. Paul and Pacific Railroad Company has been confirmed by the District Court of the United States for the Northern District of Illinois, Eastern Division, in proceedings for the reorganization of a railroad under Section 77 of the Bankruptcy Act, entitled "In the Matter of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, No. 60463."

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(3) Said District Court of the United States for the Northern District of Illinois, Eastern Division, by the consummation order entered in said reorganization proceedings on November 26, 1945, has declared the Adjustment Mortgage to be null and void, and the lien thereof cancelled and released, as of 12:01 A. M., on December 1, 1945, and has ordered and directed the undersigned The National City Bank of New York and William W. Hoffman, as such Trustees, in confirmation of the termination of said Adjustment Mortgage and the release of the lien thereof, to execute and deliver this instrument of satisfaction and release.

WHEREFORE, in consideration of and compliance with the orders and directions of the Court in said reorganization proceedings, the undersigned The National City Bank of New York and William W. Hoffman, as such Trustees, do hereby: (1) remise, release, convey and quitclaim unto Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a corporation of the State of Wisconsin, and its successors and assigns, all estate, right, title, interest, claim and demand whatsoever which they or either of them may have acquired under and by virtue of or arising from the Adjustment Mortgage in and to all property of every kind or character whatsoever and wheresoever situated, real, personal or mixed, conveyed or intended to be conveyed by the Adjustment Mortgage, all to the same effect as if herein fully set forth; (2) acknowledge full satisfaction and discharge of the Adjustment Mortgage and full discharge of all rights, claims and demands which they, or either of them, as such Trustees may have acquired by virtue of the Adjustment Mortgage; and (3) consent and direct that the Adjustment Mortgage be discharged of record, both as a real estate mortgage and as a chattel mortgage, and authorize the recording officer of

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each county and state in which the Adjustment Mortgage has been recorded or filed to discharge the same of record in his office.

IN WITNESS WHEREOF, The National City Bank of New York has caused this instrument to be signed and acknowledged by one of its Vice Presidents, and its corporate seal to be affixed hereto and the same to be attested by one of its Assistant ~~Secretaries~~ Cashiers, and William W. Hoffman has hereunto set his hand and seal, all as of 12:01 A. M., Central Standard Time, on the first day of December, 1945.

THE NATIONAL CITY BANK OF NEW YORK

By Stewart C. Pratt
Vice President.

ATTEST:
A. B. Dewar
Assistant Cashier.

William W. Hoffman (L.S.)

As Trustees under the Adjustment Mortgage of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, dated as of February 2, 1925, and indentures supplemental thereto.

In the Presence of:
Nelson Stewart
E. Whitelaw

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STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.

On this 24th day of November, in the year 1945, before me, Rose M. Moore, a Notary Public in and for the State and County aforesaid, personally appeared Stewart C. Pratt, and A. B. Dewar, to me personally known and known to me to be a Vice President and an Assistant Cashier, respectively, of The National City Bank of New York, the corporation described in and which executed the foregoing instrument, and known to me to be the identical persons whose names are subscribed to and who executed the foregoing instrument on behalf of said corporation, who, being by me duly sworn, did severally say and acknowledge that they are a Vice President and an Assistant Cashier, respectively, of said The National City Bank of New York, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and was affixed thereto by authority of its Board of Directors and that said instrument was signed, sealed and executed by them in the name and on behalf of said corporation by like authority; and said Stewart C. Pratt and A. B. Dewar severally acknowledged that they signed, sealed and delivered said instrument in the name and on behalf of said corporation as their free and voluntary act and deed as such Vice President and Assistant Cashier, respectively, and by authority of the Board of Directors of said corporation, and that said instrument was voluntarily executed by said corporation as its free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 24th day of November, 1945.

Rose M. Moore
ROSE M. MOORE,
Notary Public, New York County, No. 220.
Resides 40 Sutton Place, New York, New York.
Certificate Filed in New York County, Reg. No. 190-M-6.
Commission Expires March 30, 1946.

(NOTARIAL SEAL)

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STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.

On this 24th day of November, in the year 1945, before me, Rose M. Moore, a Notary Public in and for the State and County aforesaid, personally appeared William W. Hoffman, of the City and State of New York, to me personally known and known to me to be the person who executed the foregoing instrument, who, being by me duly sworn, did say and acknowledge that he executed the foregoing instrument; and said William W. Hoffman acknowledged that he signed, sealed and delivered said instrument as his free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 24th day of November, 1945.

Rose M. Moore
ROSE M. MOORE,
Notary Public, New York County, No. 220.
Resides 40 Sutton Place, New York, New York.
Certificate Filed in New York County, Reg. No. 190-M-6.

State of New York)
County of New York,) SS.: No. 40271. Form 1

I, ARCHIBALD R. WATSON, County Clerk and Clerk of the Supreme Court, New York County, the same being a Court of Record having by law a seal, DO HEREBY CERTIFY, That ROSE M. MOORE whose name is subscribed to the annexed deposition, certificate of acknowledgment or proof, was at the time of taking the same a NOTARY PUBLIC in and for said County, duly commissioned and sworn and qualified to act as such and authorized by the laws of the State of New York to protest notes, to take and certify depositions, to administer oaths and affirmations and certify the acknowledgment or proof of deeds and other written instruments for lands, tenements and hereditaments, to be read in evidence or recorded in this State. And further, that I am well acquainted with the handwriting of such Notary Public, or have compared the signature of such officer with his autograph signature filed in my office, and believe that the signature to the said annexed instrument is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 30 day of Nov. 1945.

(COURT SEAL)

ARCHIBALD R. WATSON
County Clerk and Clerk of the Supre
Court, New York County

Fee Paid 25¢

INDEXED

1109 Words

SATISFACTION AND RELEASE

GUARANTY TRUST COMPANY OF NEW YORK AND ARTHUR E. BURKE, as Trustees

TO

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

Fifty Year Mortgage

Filed for record this ..... day of .....

A. D. 1945, at ..... o'clock ..... M.

..... Recorder or Clerk or Auditor or Register of Deeds

..... , Deputy

Fee $.....

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GUARANTY TRUST COMPANY OF NEW YORK
and ARTHUR E. BURKE,
as Trustees

SATISFACTION AND RELEASE
of
Chicago, Milwaukee, St. Paul and Pacific
Railroad Company
FIFTY YEAR MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, that:

(1) GUARANTY TRUST COMPANY OF NEW YORK, a corporation of the State of New York, and ARTHUR E. BURKE, of the City and State of New York, as successor to Merrel P. Callaway, are Trustees under that certain indenture of mortgage and deed of trust executed by Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a corporation of the State of Wisconsin, to Guaranty Trust Company of New York and Merrel P. Callaway, as Trustees, dated as of February 2, 1925, as supplemented and amended from time to time (hereinafter referred to as the "Fifty Year Mortgage"), under which there are issued and outstanding Chicago, Milwaukee, St. Paul and Pacific Railroad Company Fifty Year Five Per Cent. Mortgage Gold Bonds, Series A, due February 1, 1975, in the aggregate principal amount of $106,395,096.

(2) A Plan of Reorganization of said Chicago, Milwaukee, St. Paul and Pacific Railroad Company has been confirmed by the District Court of the United States for the Northern District of Illinois, Eastern Division, in proceedings for the reorganization of a railroad under Section 77 of the Bankruptcy Act, entitled "In the Matter of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, No. 60463."

(3) Said District Court of the United States for the Northern District of Illinois, Eastern Division, by the consummation order entered in said reorganization proceedings on November 26, 1945, has declared the Fifty Year Mortgage to be null and void, and the lien thereof cancelled and released, as of 12:01 A. M., on December 1, 1945, and has ordered and directed the undersigned Guaranty Trust Company of New York and Arthur E. Burke, as such Trustees, in confirmation of the termination of said Fifty Year Mortgage and the release of the lien thereof, to execute and deliver this instrument of satisfaction and release.

WHEREFORE, in consideration of and compliance with the orders and directions of the Court in said reorganization proceedings, the undersigned Guaranty Trust Company of New York and Arthur E. Burke, as such Trustees, do hereby: (1) remise, release, convey and quitclaim unto Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a corporation of the State of Wisconsin, and its successors and assigns, all estate, right, title, interest, claim and demand whatsoever which they or either of them may have acquired under and by virtue of or arising from the Fifty Year Mortgage in and to all property of every kind or character whatsoever and wheresoever situated, real, personal or mixed, conveyed or intended to be conveyed by the Fifty Year Mortgage, all to the same effect as if herein fully set forth; (2) acknowledge full satisfaction and discharge of the Fifty Year Mortgage and full discharge of all rights, claims and demands which they, or either of them, as such Trustees, may have acquired by virtue of the Fifty Year Mortgage; and (3) consent and direct that the Fifty Year Mortgage be discharged of record, both as a real estate mortgage and as a chattel mortgage, and authorize the recording officer of each county and state in which the Fifty Year Mortgage has been recorded or filed to discharge the same of record in his office.

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IN WITNESS WHEREOF, Guaranty Trust Company of New York has caused this instrument to be signed and acknowledged by one of its Vice Presidents, and its corporate seal to be affixed hereto and the same to be attested by one of its Assistant Secretaries, and Arthur E. Burke has hereunto set his hand and seal, all as of 12:01 A. M., Central Standard Time, on the first day of December, 1945.

GUARANTY TRUST COMPANY OF NEW YORK

By ..... *Vice President.*

ATTEST:

..... *Assistant Secretary.*

..... (L. S.)

As Trustees under the Fifty Year Mortgage of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, dated as of February 2, 1925, and indentures supplemental thereto.

In the Presence of:

..... W. S. BURNHAM

..... B. BOYDEN

4

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.

On this 28th day of November, in the year 1945, before me, Beatrice C. Mitchell, a Notary Public in and for the State and County aforesaid, personally appeared R. A. Jones and J. C. Buttery, to me personally known and known to me to be a Vice President and an Assistant Secretary, respectively, of Guaranty Trust Company of New York, the corporation described in and which executed the foregoing instrument, and known to me to be the identical persons whose names are subscribed to and who executed the foregoing instrument on behalf of said corporation, who, being by me duly sworn, did severally say and acknowledge that they are a Vice President and an Assistant Secretary, respectively, of said Guaranty Trust Company of New York, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and was affixed thereto by authority of its Board of Directors and that said instrument was signed, sealed and executed by them in the name and on behalf of said corporation by like authority; and said R. A. Jones and J. C. Buttery, severally acknowledged that they signed, sealed and delivered said instrument in the name and on behalf of said corporation as their free and voluntary act and deed as such Vice President and Assistant Secretary, respectively, and by authority of the Board of Directors of said corporation, and that said instrument was voluntarily executed by said corporation as its free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 28th day of November, 1945.

BEATRICE C. MITCHELL,
Notary Public, New York County.
Resides 109 Seaman Avenue, New York City.
Certificates filed in New York County.
Clerk's No. 247, Register's No. 704-M-7.
Westchester County.
Commission Expires March 30, 1947.

(NOTARIAL SEAL)

5

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.

On this 30th day of November, in the year 1945, before me, Beatrice C. Mitchell, a Notary Public in and for the State and County aforesaid, personally appeared Arthur E. Burke, of the City and State of New York, to me personally known and known to me to be the person who executed the foregoing instrument, who, being by me duly sworn, did say and acknowledge that he executed the foregoing instrument; and said Arthur E. Burke acknowledged that he signed, sealed and delivered said instrument as his free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 30th day of November, 1945.

BEATRICE C. MITCHELL,
Notary Public, New York County.
Resides 109 Seaman Avenue, New York City.
Certificates filed in New York County

State of New York)
County of New York,) SS.: No. 40271. Form 1

I, ARCHIBALD R. WATSON, County Clerk and Clerk of the Supreme Court, New York County, the same being a Court of Record having by law a seal, DO HEREBY CERTIFY, That BEATRICE C. MITCHELL whose name is subscribed to the annexed deposition, certificate of acknowledgment or proof, was at the time of taking the same a NOTARY PUBLIC in and for said County, duly commissioned and sworn and qualified to act as such and authorized by the laws of the State of New York to protest notes, to take and certify depositions, to administer oaths and affirmations and certify the acknowledgment or proof of deeds and other written instruments for lands, tenements and hereditaments, to be read in evidence or recorded in this State. And further, that I am well acquainted with the handwriting of such Notary Public, or have compared the signature of such officer with his autograph signature filed in my office, and believe that the signature to the said annexed instrument is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 30 day of Nov. 1945.

(COURT SEAL)

Fee Paid 25¢

ARCHIBALD R. WATSON
County Clerk and Clerk of the Supreme Court, New York County

INDEXED

1111 words

SATISFACTION AND RELEASE

CHEMICAL BANK & TRUST COMPANY AND HOWARD B. SMITH, as Trustees

TO

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

First and Refunding Mortgage

Filed for record this ..... day of .....

A. D. 1945, at ..... o'clock ..... M.

..... Recorder or Clerk or Auditor or Register of Deeds

....., Deputy

Fee $.....

2

CHEMICAL BANK & TRUST COMPANY
and HOWARD B. SMITH,
as Trustees

SATISFACTION AND RELEASE
of
Chicago, Milwaukee, St. Paul and Pacific Railroad Company

FIRST AND REFUNDING MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, that:

(1) CHEMICAL BANK & TRUST COMPANY, a corporation of the State of New York, and HOWARD B. SMITH, of the Town of Montclair, State of New Jersey, are successor Trustees under that certain First and Refunding Mortgage executed by Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a corporation of the State of Wisconsin, to United States Mortgage and Trust Company and Calvert Brewer, as Trustees, dated as of February 2, 1925, as supplemented and amended from time to time (hereinafter referred to as the "Refunding Mortgage"), under which there were issued Chicago, Milwaukee, St. Paul and Pacific Railroad Company First and Refunding Mortgage 6% Bonds, Series A, due June 1, 1943, in the aggregate principal amount of $9,866,000, of which $258,000 in principal amount have heretofore been cancelled.

(2) A Plan of Reorganization of said Chicago, Milwaukee, St. Paul and Pacific Railroad Company has been confirmed by the District Court of the United States for the Northern District of Illinois, Eastern Division, in proceedings for the reorganization of a railroad under Section 77 of the Bankruptcy Act, entitled "In the Matter of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, No. 60463."

(3) Said District Court of the United States for the Northern District of Illinois, Eastern Division, by the consummation order entered in said reorganization proceedings on November 26, 1945, has declared the Refunding Mortgage to be null and void, and the lien thereof cancelled and released, as of 12:01 A. M., on December 1, 1945, and has ordered and directed the undersigned Chemical Bank & Trust Company and Howard B. Smith, as such Trustees, in confirmation of the termination of said Refunding Mortgage and the release of the lien thereof, to execute and deliver this instrument of satisfaction and release.

WHEREFORE, in consideration of and compliance with the orders and directions of the Court in said reorganization proceedings, the undersigned Chemical Bank & Trust Company and Howard B. Smith, as such Trustees, do hereby: (1) remise, release, convey and quitclaim unto Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a corporation of the State of Wisconsin, and its successors and assigns, all estate, right, title, interest, claim and demand whatsoever which they or either of them may have acquired under and by virtue of or arising from the Refunding Mortgage in and to all property of every kind or character whatsoever and wheresoever situated, real, personal or mixed, conveyed or intended to be conveyed by the Refunding Mortgage, all to the same effect as if herein fully set forth; (2) acknowledge full satisfaction and discharge of the Refunding Mortgage and full discharge of all rights, claims and demands which they, or either of them, as such Trustees, may have acquired by virtue of the Refunding Mortgage; and (3) consent and direct that the Refunding Mortgage be discharged of record,

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both as a real estate mortgage and as a chattel mortgage, and authorize the recording officer of each county and state in which the Refunding Mortgage has been recorded or filed to discharge the same of record in his office.

IN WITNESS WHEREOF, Chemical Bank & Trust Company has caused this instrument to be signed and acknowledged by one of its Vice Presidents, and its corporate seal to be affixed hereto and the same to be attested by one of its Assistant Secretaries, and Howard B. Smith has hereunto set his hand and seal, all as of 12:01 A. M., Central Standard Time, on the first day of December, 1945.

CHEMICAL BANK & TRUST COMPANY

By .....
Vice President.

ATTEST:

.....
Assistant Secretary.

.....(L. S.)

As Successor Trustees under the First and Refunding Mortgage of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, dated as of February 2, 1925, and indentures supplemental thereto.

In the Presence of:

.....

.....

4

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.

On this 27th day of November, in the year 1945, before me, Harold Williams, a Notary Public in and for the State and County aforesaid, personally appeared Howard B. Smith and R. H. Sherman, to me personally known and known to me to be a Vice President and an Assistant Secretary, respectively, of Chemical Bank & Trust Company, the corporation described in and which executed the foregoing instrument, and known to me to be the identical persons whose names are described in and who executed the foregoing instrument on behalf of said corporation, who, being by me duly sworn, did severally say and acknowledge that they are a Vice President and an Assistant Secretary, respectively, of said Chemical Bank & Trust Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and was affixed thereto by authority of its Board of Directors and that said instrument was signed, sealed and executed by them in the name and on behalf of said corporation by like authority; and said Howard B. Smith and R. H. Sherman severally acknowledged that they signed, sealed and delivered said instrument in the name and on behalf of said corporation as their free and voluntary act and deed as such Vice President and Assistant Secretary, respectively, and by authority of the Board of Directors of said corporation, and that said instrument was voluntarily executed by said corporation as its free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 27th day of November, 1945.

Harold Williams

(Notarial Seal) HAROLD WILLIAMS
NOTARY PUBLIC, QUEENS COUNTY,
No. 3073

179-12 90th Avenue, Jamaica 3, New York
Certificates Filed in Queens Co. Reg. No. 164-W-6
New York Co. Clerk's No. 576, Reg. No. 322-W-6
Suffolk County
Commission Expires March 30, 1946

5

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.

On this 28th day of November, in the year 1945, before me, Harold Williams, a Notary Public in and for the State and County aforesaid, personally appeared Howard B. Smith, of the Town of Montclair, State of New Jersey, to me personally known and known to me to be the person who executed the foregoing instrument, who, being by me duly sworn, did say and acknowledge that he executed the foregoing instrument; and said Howard B. Smith acknowledged that he signed, sealed and delivered said instrument as his free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 28th day of November, 1945.

No. .59910. Form 2

State of New York,)
County of New York,) ss.:

I, ARCHIBALD R. WATSON, County Clerk and Clerk of the Supreme Court, New York County, the same being a Court of Record, having by law a seal, DO HEREBY CERTIFY, that HAROLD WILLIAMS whose name is subscribed to the annexed deposition, certificate of acknowledgment or proof, was at the time of taking the same a NOTARY PUBLIC acting in and for said County, duly commissioned and sworn, and qualified to act as such; that he has filed in the Clerk's office of the County of New York a certificate of his appointment and qualification as a Notary Public for the County of Queens with his autograph signature; that as such Notary Public he was duly authorized by the laws of the State of New York to protest notes, to take and certify depositions, to administer oaths and affirmations, to take affidavits and certify the acknowledgments or proof of deeds and other written instruments for lands, tenements and hereditaments, to be read in evidence or recorded in this State. And further, that I am well acquainted with the handwriting of such Notary Public, or have compared the signature of such officer with his autograph signature filed in my office, and believe that the signature to the said annexed instrument is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 28 day of Nov. 1945.

(COURT SEAL)

Fee paid 25¢

ARCHIBALD R. WATSON
County Clerk and Clerk of the Supreme Court, New York County

INDEXED

1005 words

SATISFACTION AND RELEASE

UNITED STATES TRUST COMPANY OF NEW YORK as Trustees

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

General Mortgage

Filed for record this ..... day of .....

A. D. 1945, at ..... o'clock ..... M.

.....
Recorder or Clerk or Auditor or Register of Deeds

....., Deputy

Fee $.....

2

UNITED STATES TRUST COMPANY OF NEW YORK,
as Trustee

SATISFACTION AND RELEASE
of
Chicago, Milwaukee & St. Paul Railway Company
GENERAL MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, that:

(1) UNITED STATES TRUST COMPANY OF NEW YORK, a corporation of the State of New York, is Trustee under that certain indenture of mortgage and deed of trust executed by Chicago, Milwaukee & St. Paul Railway Company, a corporation of the State of Wisconsin, to United States Trust Company of New York, dated May 1, 1889, as supplemented and amended from time to time (hereinafter referred to as the "General Mortgage"), under which there are issued Chicago, Milwaukee & St. Paul Railway Company General Mortgage Gold Bonds, due May 1, 1989, in the aggregate principal amount of $150,000,000, of which $138,788,000 in principal amount are outstanding in the hands of the public and $11,212,000 in principal amount were pledged to secure the claims of Reconstruction Finance Corporation which claims have been paid and the pledged Bonds released for cancellation.

(2) Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a corporation of the State of Wisconsin, having acquired all of the properties of said Chicago, Milwaukee & St. Paul Railway Company, subject, among other things, to the lien of the General Mortgage, assumed the payment of the principal of and interest on said General Mortgage Bonds by indenture dated February 4, 1928.

(3) A Plan of Reorganization of said Chicago, Milwaukee, St. Paul and Pacific Railroad Company has been confirmed by the District Court of the United States for the Northern District of Illinois, Eastern Division, in proceedings for the reorganization of a railroad under Section 77 of the Bankruptcy Act, entitled "In the Matter of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, No. 60463."

(4) Said District Court of the United States for the Northern District of Illinois, Eastern Division, by the consummation order entered in said reorganization proceedings on November 26, 1945, has declared the General Mortgage to be null and void, and the lien thereof cancelled and released, as of 12:01 A. M., on December 1, 1945, and has ordered and directed the undersigned United States Trust Company of New York, as such Trustee, in confirmation of the termination of said General Mortgage and the release of the lien thereof, to execute and deliver this instrument of satisfaction and release.

WHEREFORE, in consideration of and compliance with the orders and directions of the Court in said reorganization proceedings, the undersigned United States Trust Company of New York, as such Trustee, does hereby: (1) remise, release, convey and quitclaim unto Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a corporation of the State of Wisconsin, and its successors and assigns, all estate, right, title, interest, claim and demand whatsoever which it may have acquired under and by virtue of or arising from the General Mortgage in and to all property of every kind or character whatsoever and wheresoever situated, real, personal or mixed, conveyed or intended to be conveyed by the General Mortgage, all to the same effect as if herein fully set forth; (2) acknowledge full satisfaction and discharge

Record No. , County,

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of the General Mortgage and full discharge of all rights, claims and demands which it, as Trustee as aforesaid, may have acquired by virtue of the General Mortgage; and (3) consent and direct that the General Mortgage be discharged of record, both as a real estate mortgage and as a chattel mortgage, and authorize the recording officer of each county and state in which the General Mortgage has been recorded or filed to discharge the same of record in his office.

IN WITNESS WHEREOF, United States Trust Company of New York has caused this instrument to be signed and acknowledged by one of its Assistant Vice Presidents, and its corporate seal to be affixed hereto and the same to be attested by one of its Assistant Secretaries, as of 12:01 A. M., Central Standard Time, on the first day of December, 1945.

UNITED STATES TRUST COMPANY OF NEW YORK,
as Trustee under Chicago, Milwaukee & St. Paul Railway Company's General Mortgage, dated May 1, 1889, and indentures supplemental thereto,

By .....
Assistant Vice President.

ATTEST:

.....
Assistant Secretary.

In the Presence of:

.....

.....

4

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.

On this 28th day of November, in the year 1945, before me, Barth E. Rockett, a Notary Public in and for the State and County aforesaid, personally appeared Henry L. Smithers and Armitage Morrison, to me personally known and known to me to be an Assistant Vice President and an Assistant Secretary, respectively, of United States Trust Company of New York, the corporation described in and which executed the foregoing instrument, and known to me to be the identical persons whose names are subscribed to and who executed the foregoing instrument on behalf of said corporation, who, being by me duly sworn, did severally say and acknowledge that they are an Assistant Vice President and an Assistant Secretary, respectively, of said United States Trust Company of New York, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and was affixed thereto by authority of its Board of ~~Directors~~ Trustees and that said instrument was signed, sealed and executed by them in the name and on behalf of said corporation by like authority; and said Henry L. Smithers and Armitage Morrison, severally acknowledged that they signed, sealed and delivered said instrument in the name and on behalf of said corporation as their free and voluntary act and deed as such Assistant Vice President and Assistant Secretary, respectively, and by authority of the Board of ~~Directors~~ Trustees of said corporation, and that said instrument was voluntarily executed by said corporation as its free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 28th day of November, 1945.

(NOTARIAL SEAL)

BARTH E. ROCKETT
NOTARY PUBLIC, QUEENS COUNTY, NEW YORK
104-42 106th Street, Ozone Park, Queens County, New York
Commission Expires March 30, 1946

BARTH E. ROCKETT
NOTARY PUBLIC, Queens County
Queens Co. Clk's No. 1768, Reg. No. 28-R-4
N.Y. Co. Clk's No. 210, Reg. No. 126-R-4
Commission expires March 30, 1946

No. .59910. Form 2

State of New York,)
County of New York,) ss.:

I, ARCHIBALD R. WATSON, County Clerk and Clerk of the Supreme Court, New York County, the same being a Court of Record, having by law a seal, DO HEREBY CERTIFY, that BARTH E. ROCKETT whose name is subscribed to the annexed deposition, certificate of acknowledgment or proof, was at the time of taking the same a NOTARY PUBLIC acting in and for said County, duly commissioned and sworn, and qualified to act as such; that he has filed in the Clerk's office of the County of New York a certificate of his appointment and qualification as a Notary Public for the County of Queens with his autograph signature; that as such Notary Public he was duly authorized by the laws of the State of New York to protest notes, to take and certify depositions, to administer oaths and affirmations, to take affidavits and certify the acknowledgments or proof of deeds and other written instruments for lands, tenements and hereditaments, to be read in evidence or recorded in this State. And further, that I am well acquainted with the handwriting of such Notary Public, or have compared the signature of such officer with his autograph signature filed in my office, and believe that the signature to the said annexed instrument is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 29 day of Nov. 1945.

(COURT SEAL)

Fee paid 25¢

ARCHIBALD R. WATSON
County Clerk and Clerk of the Supreme Court, New York County

INDEXED

1012 words

CITY BANK FARMERS TRUST COMPANY,
As Trustee

SATISFACTION AND RELEASE
of
MILWAUKEE & NORTHERN RAILROAD COMPANY

CONSOLIDATED MORTGAGE

DATED DECEMBER 1, 1945

KNOW ALL MEN BY THESE PRESENTS, that:

(1) CITY BANK FARMERS TRUST COMPANY, (formerly known as The Farmers' Loan and Trust Company), a corporation of the State of New York, is successor Trustee under that certain indenture of mortgage and deed of trust executed by Milwaukee & Northern Railroad Company, a corporation of the State of Wisconsin, to Samuel N. Hoyt and Allen S. Apgar, of the City of New York, as Trustees, dated February 11, 1884, as supplemented and amended by indentures dated January 6, 1887, November 22, 1887, June 23, 1890, April 24, 1893, July 28, 1893, May 31, 1913, August 18, 1932, and May 31, 1934 (hereinafter referred to collectively as the "Consolidated Mortgage"), under which there are issued and outstanding Milwaukee & Northern Railroad Company Consolidated Mortgage Bonds in the aggregate principal amount of $5,092,000.

(2) By deed dated June 26, 1893, the properties of said Milwaukee & Northern Railroad Company were conveyed to Chicago, Milwaukee and St. Paul Railway Company, a corporation of the State of Wisconsin, subject to the lien of the Consolidated Mortgage.

(3) On January 13, 1928, Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a corporation of the State of Wisconsin, acquired all of the properties of said Chicago, Milwaukee and St. Paul Railway Company, subject to the lien of the Consolidated Mortgage, and by indenture dated as of May 31, 1934, assumed the payment of the principal of and interest on said Consolidated Mortgage Bonds.

(4) A Plan of Reorganization of said Chicago, Milwaukee, St. Paul and Pacific Railroad Company has been confirmed by the District Court of the United States for the Northern District of Illinois, Eastern Division, in proceedings for the reorganization of a railroad under Section 77 of the Bankruptcy Act, entitled "In the Matter of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, No. 60463."

(5) Said District Court of the United States for the Northern District of Illinois, Eastern Division, by the consummation order entered in said reorganization proceedings on November 26, 1945, has declared the Consolidated Mortgage to be null and void, and the lien thereof cancelled and released, as of 12:01 A.M., on December 1, 1945, and has ordered and directed the undersigned City Bank Farmers Trust Company, as such Trustee, in confirmation of the termination of said Consolidated Mortgage and the release of the lien thereof, to execute and deliver this instrument of satisfaction and release.

WHEREFORE, in consideration of and compliance with the orders and directions of the Court in said reorganization proceedings, the undersigned City Bank Farmers Trust Company, as such Trustee, does hereby: (1) remise, release, convey and quitclaim unto Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a corporation of the State of Wisconsin, and its successors and assigns, all estate, right, title, interest, claim and demand whatsoever which it may have acquired under and by virtue of or arising from the Consolidated Mortgage in and to all property of every kind or character whatsoever and wheresoever situated, real, personal or mixed, conveyed or intended to be conveyed by the Consolidated Mortgage, all to the same effect as if herein fully set forth; (2) acknowledge full satisfaction and discharge of the Consolidated Mortgage and full

discharge of ~~the Consolidated Mortgage and full discharge of~~ all rights, claims and demands which it, as successor Trustee as aforesaid, may have acquired by virtue of the Consolidated Mortgage; and (3) consent and direct that the Consolidated Mortgage be discharged of record, both as a real estate mortgage and as a chattel mortgage, and authorize the recording officer of each county and state in which the Consolidated Mortgage has been recorded or filed in the States of Wisconsin and Michigan or elsewhere to discharge the same of record in his office.

IN WITNESS WHEREOF, City Bank Farmers Trust Company has caused this instrument to be signed and acknowledged by one of its Vice Presidents, and its corporate seal to be affixed hereto and the same to be attested by one of its Assistant Secretaries, as of 12:01 A.M., Central Standard Time, on the first day of December, 1945.

(CORPORATE SEAL)

CITY BANK FARMERS TRUST COMPANY,
as successor Trustee under Milwaukee & Northern Railroad Company's Indenture of Consolidated Mortgage and Deed of Trust, dated February 11, 1884, and indentures supplemental thereto,

By R. E. MORTON
Vice President.

Attest:

H. BOTTENUS
Assistant Secretary.

In the Presence of:

S. L. SMITH

FRANCIS M. PITT

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

On this 29th day of November, in the year 1945, before me, Rose M. Moore, a Notary Public in and for the State and County aforesaid, personally appeared R. E. Morton and H. Bottenus, to me personally known and known to me to be a Vice President and an Assistant Secretary, respectively, of City Bank Farmers Trust Company the corporation described in and which executed the foregoing instrument, and known to me to be the identical persons whose names are subscribed to and who executed the foregoing instrument on behalf of said corporation, who, being by me duly sworn, did severally say and acknowledge that they are a Vice President and an Assistant Secretary, respectively, of said City Bank Farmers Trust Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and was affixed thereto by authority of its Board of Directors and that said instrument was signed, sealed and executed by them in the name and on behalf of said corporation by like authority; and said R. E. Morton and H. Bottenus severally acknowledged that they signed, sealed and delivered said instrument in the name and on behalf of said corporation as their free and voluntary act and deed as such Vice President and Assistant Secretary, respectively, and by authority of the Board of Directors of said corporation, and that said instrument was voluntarily executed by said corporation as its free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 29th day of November, 1945.

(NOTARIAL SEAL)

ROSE M. MOORE

ROSE M. MOORE
NOTARY PUBLIC, NEW YORK COUNTY,
No. 220
40 Sutton Place, New York, New York
Certificate Filed in New York Co., Reg. No.190-M-6
Commission Expires March 30, 1946

No. 40183

State of New York)
County of New York) ss.:

I, ARCHIBALD R. WATSON, County Clerk and Clerk of the Supreme Court, New York County, the same being a Court of Record having by law a seal, DO HEREBY CERTIFY, That ROSE M. MOORE whose name is subscribed to the annexed deposition, certificate of acknowledgment or proof, was at the time of taking the same a NOTARY PUBLIC in and for said County, duly commissioned and sworn and qualified to act as such and authorized by the laws of the State of New York to protest notes, to take and certify depositions, to administer oaths and affirmations and certify the acknowledgment or proof of deeds and other written instruments for lands, tenements and hereditaments, to be read in evidence or recorded in this State. And further, that I am well acquainted with the handwriting of such Notary Public, or have compared the signature of such officer with his autograph signature filed in my office, and believe that the signature to the said annexed instrument is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 29 day of Nov., 1945.

(COURT SEAL)

ARCHIBALD R. WATSON
County Clerk, and Clerk of the Supreme Court, New York County

STATE OF WISCONSIN)
DEPARTMENT OF STATE) SS.

Received this 5th day of December A. D. 1945 at 4:20 o'clock P.M. and recorded in Vol. 39 of Railroad Mortgages on pages 11-12 incl.

ROBERT C. ZIMMERMAN
Assistant Secretary of State

INDEXED

1002 words

CITY BANK FARMERS TRUST COMPANY,
As Trustee

SATISFACTION AND RELEASE
of
MILWAUKEE & NORTHERN RAILROAD COMPANY

FIRST MORTGAGE

DATED DECEMBER 1, 1945

KNOW ALL MEN BY THESE PRESENTS, that:

(1) CITY BANK FARMERS TRUST COMPANY (formerly known as The Farmers' Loan and Trust Company), a corporation of the State of New York, is successor Trustee under that certain indenture of mortgage and deed of trust executed by Milwaukee & Northern Railroad Company, a corporation of the State of Wisconsin, to Jesse Hoyt and Allen S. Apgar, of the City of New York, as Trustees, dated June 10, 1880,as supplemented and amended by indentures dated May 31, 1913, August 18, 1932 and May 31, 1934 (hereinafter referred to collectively as the "First Mortgage"), under which there are issued and outstanding Milwaukee & Northern Railroad Company First Mortgage Bonds in the aggregate principal amount of $2,155,000.

(2) By deed dated June 26, 1893, the properties of said Milwaukee & Northern Railroad Company were conveyed to Chicago, Milwaukee & St. Paul Railway Company, a corporation of the State of Wisconsin, subject to the lien of the First Mortgage.

(3) On January 13, 1928, Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a corporation of the State of Wisconsin, acquired all of the properties of said Chicago, Milwaukee & St. Paul Railway Company, subject to the lien of the First Mortgage, and by indenture dated as of May 31, 1934, assumed the payment of the principal of and interest on said First Mortgage Bonds.

(4) A Plan of Reorganization of said Chicago, Milwaukee, St. Paul and Pacific Railroad Company has been confirmed by the District Court of the United States for the Northern District of Illinois, Eastern Division, in proceedings for the reorganization of a railroad under Section 77 of the Bankruptcy Act, entitled "In the Matter of Chicago,Milwaukee, St. Paul and Pacific Railroad Company, Debtor, No. 60463."

(5) Said District Court of the United States for the Northern District of Illinois, Eastern Division, by the consummation order entered in said reorganization proceedings on November 26, 1945, has declared the First Mortgage to be null and void, and the lien thereof cancelled and released, as of 12:01 A.M., on December 1, 1945, and has ordered and directed the undersigned City Bank Farmers Trust Company, as such Trustee, in confirmation of the termination of said First Mortgage and the release of the lien thereof, to execute and deliver this instrument of satisfaction and release.

WHEREFORE, in consideration of and compliance with the orders and directions of the Court in said reorganization proceedings, the undersigned City Bank Farmers Trust Company, as such Trustee, does hereby: (1) remise, release, convey and quitclaim unto Chicago,Milwaukee, St. Paul and Pacific Railroad Company, a corporation of the State of Wisconsin, and its successors and assigns, all estate, right, title, interest, claim and demand whatsoever which it may have acquired under and by virtue of or arising from the First Mortgage in and to all property of every kind or character whatsoever and wheresoever situated, real, personal or mixed, conveyed or intended to be conveyed by the First Mortgage, all to the same effect as if herein fully set forth; (2) acknowledge full satisfaction and discharge of the First Mortgage and full discharge of all rights, claims and demands which it, as successor Trustee as aforesaid, may have acquired by virtue of the First Mortgage; and (3) consent and direct that the First Mortgage be discharged of record, both as a real estate mortgage and as a chattel mortgage, and authorize the

recording officer of each county and state in which the First Mortgage has been recorded or filed in the State of Wisconsin or elsewhere to discharge the same of record in his office.

IN WITNESS WHEREOF, City Bank Farmers Trust Company has caused this instrument to be signed and acknowledged by one of its Vice Presidents, and its corporate seal to be affixed hereto and the same to be attested by one of its Assistant Secretaries, as of 12:01 A. M., Central Standard Time, on the first day of December, 1945.

(CORPORATE SEAL)

CITY BANK FARMERS TRUST COMPANY,
as successor Trustee under Milwaukee & Northern Railroad Company's Indenture of First Mortgage and Deed of Trust, dated June 10, 1880, and indentures supplemental thereto,

By R. E. MORTON
Vice President.

ATTEST:

H. BOTTENUS
Assistant Secretary.

In the Presence of:

S. L. SMITH

FRANCIS M. PITT

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

On this 29th day of November, in the year 1945, before me, Rose M. Moore, a Notary Public in and for the State and County aforesaid, personally appeared R.E.Morton and H. Bottenus, to me personally known and known to me to be a Vice President and an Assistant Secretary, respectively, of City Bank Farmers Trust Company, the corporation described in and which executed the foregoing instrument, and known to me to be the identical persons whose names are subscribed to and who executed the foregoing instrument on behalf of said corporation, who, being by me duly sworn, did severally say and acknowledge that they are a Vice President and an Assistant Secretary, respectively, of said City Bank Farmers Trust Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and was affixed thereto by authority of its Board of Directors and that said instrument was signed, sealed and executed by them in the name and on behalf of said corporation by like authority; and said R. E. Morton and H. Bottenus severally acknowledged that they signed, sealed and delivered said instrument in the name and on behalf of said corporation as their free and voluntary act and deed as such Vice President and Assistant Secretary, respectively, and by authority of the Board of Directors of said corporation, and that said instrument was voluntarily executed by said corporation as its free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 29th day of November, 1945.

(NOTARIAL SEAL)

ROSE M. MOORE
ROSE M. MOORE
NOTARY PUBLIC, NEW YORK COUNTY,
No. 220
40 Sutton Place, New York, New York
Certificate Filed in New York Co., Reg. No. 190-M-6
Commission Expires March 30, 1946

State of New York)
County of New York)ss.:

No. 40182

I, ARCHIBALD R. WATSON, County Clerk and Clerk of the Supreme Court, New York County, the same being a Court of Record having by law a seal, DO HEREBY CERTIFY, that ROSE M. MOORE whose name is subscribed to the annexed deposition, certificate of acknowledgment or proof, was at the time of taking the same a NOTARY PUBLIC in and for said County, duly commissioned and sworn and qualified to act as such and authorized by the laws of the State of New York to protest notes, to take and certify depositions, to administer oaths and affirmations and certify the acknowledgments or proof of deeds and other written instruments for lands, tenements and hereditaments, to be read in evidence or recorded in this State. And further, that I am well acquainted with the handwriting of such Notary Public, or have compared the signature of such officer with his autograph signature filed in my office, and believe that the signature to the said annexed instrument is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 29 day of Nov., 1945.

(COURT SEAL)

ARCHIBALD R. WATSON
County Clerk, and Clerk of the Supreme Court,
New York County

STATE OF WISCONSIN)
DEPARTMENT OF STATE) SS.

Received this 5th day of December, A. D. 1945 at 4:21 o'clock P.M. and recorded in Vol. 39 of Railroad Mortgages on pages 13-14 incl.

ROBERT C. ZIMMERMAN
Assistant Secretary of State

Mortgage Record No. , County,

INDEXED

81,699 words

FIRST MORTGAGE

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

TO

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO

TRUSTEE

Filed for record this.....day of.....

A. D. 1945, at.....o'clock.....M.

.....
Recorder or Clerk or Auditor or Register of Deeds

....., Deputy

Fee $.....

DATED AS OF JANUARY 1, 1944

This Indenture of Mortgage and Deed of Trust, dated as of the first day of January, One Thousand Nine Hundred Forty-four (hereinafter referred to as the "Mortgage"), between CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a Wisconsin corporation (hereinafter referred to as the "Railroad Company"), having its principal office in the City of Chicago, State of Illinois, party of the first part, and CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association (hereinafter referred to as the "Trustee"), having its principal office at 231 South La Salle Street, in the City of Chicago, State of Illinois, party of the second part,

WITNESSETH:

WHEREAS, the Railroad Company is a corporation duly organized and existing under the laws of the State of Wisconsin and is authorized by its articles of incorporation and pursuant to law to acquire, own, lease, construct, extend, maintain and operate a line or lines of railroad in the States of Wisconsin, Michigan, Indiana, Illinois, Minnesota, Iowa, Nebraska, Missouri, Kansas, North Dakota, South Dakota, Montana, Idaho and Washington; and

WHEREAS, the Railroad Company was reorganized pursuant to a certain plan of reorganization certified by order of the Interstate Commerce Commission dated April 10, 1944, in proceedings entitled "Chicago, Milwaukee, St. Paul and Pacific Railroad Company Reorganization, Finance Docket No. 10882," corrected, clarified and approved by the District Court of the United States for the Northern District of Illinois, Eastern Division (hereinafter referred to as the "Court"), by order dated June 30, 1944, and confirmed by the Court by order dated February 23, 1945, in proceedings for the reorganization of a railroad under Section 77 of the Bankruptcy Act, entitled "In the Matter of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, No. 60463" (said plan as so confirmed being hereinafter referred to as the "Plan" and the debtor in said proceedings being hereinafter referred to as the "Debtor"), and said order of confirmation has become final in all respects; and

WHEREAS, pursuant to the Plan and the order of the Court dated November 26, 1945, and by virtue of appropriate conveyances from Henry A. Scandrett, Walter J. Cummings and George I. Haight, as trustees of the Debtor's property, the Railroad Company now owns the several lines of railway and other property and franchises heretofore owned by the Debtor and by said trustees of the Debtor's property; and

WHEREAS, in order to comply with the provisions of the Plan and orders of the Court and to provide funds for its lawful corporate purposes, the Railroad Company has duly determined to issue its First Mortgage Bonds, not limited in aggregate principal amount except as hereinafter provided, to be secured by the Mortgage on the real and personal property of the Railroad Company hereinafter described or referred to as being or to become subject to the lien hereof, such Bonds to be issued in one or more series from time to time, the Bonds of each series to be issued originally either as coupon Bonds registerable as to principal or as registered Bonds without coupons, or both, and all such Bonds to be authenticated by the certificate of the Trustee, all as hereinafter provided; and

WHEREAS, pursuant to the order of the Court dated November 26, 1945, interest payable for the year 1944 and the period January 1 to June 30, 1945, on the First Mortgage Bonds of Series A to be issued under the Plan has been paid, or made available for payment, to the holders of securities of the Debtor to whom such Bonds of Series A are allotted under the Plan; and

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WHEREAS, in accordance with the Plan, the Reorganization Committee designated pursuant thereto has duly determined the form and provisions (so far as not otherwise specifically provided in the Plan) of the Mortgage and of the Bonds of Series A to be issued thereunder, and the Court, pursuant to the requirements of the Plan and the power vested in the Court by the Plan to cure any defect, supply any omission or reconcile any inconsistency in such manner and to such extent as may be necessary or expedient to carry out the Plan effectively, has adjusted the Plan in certain respects, and, by order dated November 26, 1945, has approved the form and provisions of the Mortgage and of the Bonds and coupons provided to be issued thereunder; and

WHEREAS, the Bonds of Series A, the interest coupons to be attached to the coupon Bonds of Series A, and the Trustee's certificate of authentication to be endorsed on the Bonds of all series, are to be substantially in the following forms, respectively:

(Form of Coupon Bond of Series A)

No..... $.....

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

FIRST MORTGAGE 4% BOND, SERIES A,
DUE JANUARY 1, 1994

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a corporation duly organized and existing under the laws of the State of Wisconsin, and having its principal office in the City of Chicago, State of Illinois (herein referred to as the "Railroad Company"), for value received, hereby promises to pay to bearer or, if this Bond be registered as to principal, then to the registered holder hereof, on January 1, 1994, the principal sum of .... Dollars ($.....) in such coin or currency of

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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 said principal sum in like coin or currency from July 1, 1945, at the rate of 4% per annum, semi-annually on the first days of January and July in each year, until said principal sum becomes due and payable as herein provided and, if default be made in the payment of said principal sum when so due and payable, thereafter (to the extent permitted by law) at the highest rate of interest borne by any of the Bonds outstanding under the Mortgage hereinafter referred to until the Railroad Company's obligation with respect to the payment of said principal sum shall be discharged as provided in the Mortgage, but only, in the case of interest due on or before the date said principal sum becomes due and payable, upon presentation and surrender of the respective interest coupons hereto appertaining as they shall severally mature.

The principal of, premium if any, and interest on this Bond are payable at the office or agency of the Railroad Company in the City of Chicago, State of Illinois, or at the option of the holder hereof at the office or agency of the Railroad Company in the Borough of Manhattan, City and State of New York.

This Bond is one of the First Mortgage Bonds of the Railroad Company (herein referred to as the "Bonds"), not limited in aggregate principal amount except as provided in the Mortgage, issued and to be issued under, and all equally and ratably secured by, a mortgage and deed of trust dated as of January 1, 1944 (herein referred to as the "Mortgage"), duly executed and delivered by the Railroad Company to Continental Illinois National Bank and Trust Company of Chicago, Trustee, and its successors in trust (which Trustee and its successors in trust are hereinafter referred to as the "Trustee"), to which Mortgage and all indentures supplemental thereto reference is hereby made for a description of the property mortgaged and pledged, the nature and extent of the security, the rights of and restrictions upon the Railroad Company and the holders of the Bonds and coupons in respect of such security, the rights, duties and immunities of the Trustee and the terms and conditions under which the

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Bonds are, and may be, issued and secured. By the terms of the Mortgage, the Bonds may be for various principal sums and are issuable in series, and the Bonds of any series may differ from the Bonds of any other series as to denomination, date, maturity, interest rate, redemption and otherwise, all as in the Mortgage provided. Bonds of Series A, of which this is one, are designated as the "First Mortgage 4% Bonds, Series A, due January 1, 1994," and the aggregate principal amount thereof is limited to $59,515,100.

If an event of default as defined in the Mortgage shall occur, the principal of this Bond may be declared or may become due and payable prior to the stated date of maturity hereof in the manner, with the effect and subject to the conditions provided in the Mortgage.

The Mortgage contains provisions permitting the Railroad Company and the Trustee at any time or times, with the consent of the holders of not less than 75% in principal amount of all of the Bonds at the time outstanding, evidenced as in the Mortgage provided, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, to extend the time or times of payment of the principal, either before or after the principal is due, of all of the Bonds of any or all series then outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, or to extend the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all series then outstanding, whether bearing fixed or contingent interest, for a period not exceeding 5 years after such interest is due but not beyond the original or extended date or dates for the payment of the principal of such Bonds. The Mortgage also contains provisions permitting the Railroad Company and the Trustee at any time or times, with the consent of the holders of not less than 66⅔% in principal amount of the Bonds to be directly affected thereby, evidenced as in the Mortgage provided, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, to modify,

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alter, add to or eliminate in any manner any of the provisions of the Mortgage or of any indenture supplemental thereto or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, or to sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property, or to sanction or approve any plan for the reorganization, readjustment or liquidation of the Railroad Company. Any such consent of the holder of this Bond (unless effectively revoked as provided in the Mortgage) shall be conclusive and binding upon such holder and upon all future holders of this Bond. Without the consent of the holder of this Bond, as evidenced by an appropriate legend endorsed hereon, no such extension, modification, alteration, addition, elimination, sanction or approval shall (i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on this Bond, or change the place or the medium of payment thereof, or (ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage or of any indenture supplemental thereto, with respect to any property covered thereby, otherwise than as permitted by the Mortgage, or (iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds.

This Bond is subject to redemption at any time prior to maturity for the purposes of certain sinking funds or at the option of the Railroad Company, in each case upon publication of notice of such redemption once each week for 4 successive weeks in a newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, City and State of New York, and in a like newspaper published on each business day and of general circulation in the City of Chicago, State of Illinois, the first publication to be not less than 30 days and not more than 60 days before the date fixed for redemption if such date is an interest-payment date, and not less than 60 days and not more than 90 days before the date fixed for redemption if such date is not an interest-payment date, all as provided in the Mortgage, at a redemption price equal to the principal amount thereof, plus all accrued interest

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on such principal amount to the date fixed for redemption and a premium equal to 5% of such principal amount decreased by ¼ of 1% for each two full calendar years elapsed after January 1, 1945, to and including January 1, 1985, but without premium if redeemed after January 1, 1985.

The Bonds of Series A are entitled to the benefits of annual payments into the Series A Sinking Fund out of Available Net Income, if any, as defined and applicable for the purpose under the terms of the Mortgage, of an amount equal to ¼ of 1% of the aggregate principal amount of Bonds of Series A authorized to be issued as aforesaid, plus an amount equal to one year's interest on all Bonds of Series A previously acquired through the operation of the Series A Sinking Fund.

This Bond is transferable by delivery unless registered as to principal. This Bond may be registered as to principal at the office or agency maintained by the Railroad Company in said City of Chicago or in said Borough of Manhattan, on registry books kept for such purpose at such office or agency, such registration being noted hereon, after which no transfer hereof shall be valid unless made on said books at either said office or agency by the registered holder in person or by his attorney duly authorized in writing, and similarly noted hereon; but this Bond may be discharged from such registration by like transfer to bearer noted hereon, whereupon transferability by delivery shall be restored. Such registration, however, shall not affect the transferability by delivery of the coupons for the interest hereon, and such coupons shall continue to be payable to bearer and transferable by delivery.

The Railroad Company, the Trustee, any paying agent and any bond registrar may deem and treat the bearer hereof, or if registered as to principal the registered holder hereof, and the bearer of any interest coupon appertaining hereto whether or not this Bond shall be registered as to principal, as the absolute owner of this Bond or such coupon, as the case may be (whether or not this Bond or such coupon shall have become due and payable), for the purpose of receiving any payment then being made of or on account of the principal hereof, premium if any, and interest hereon, and for all

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other purposes, and neither the Railroad Company nor the Trustee nor any paying agent nor any bond registrar shall be bound by any notice to the contrary.

The coupon Bonds of this Series are issuable in denominations of $100, $500 and $1,000. The registered Bonds without coupons of this Series are issuable in denominations of $1,000, $5,000 and $10,000, and, with the consent of the Railroad Company, in denominations in excess of $10,000. Upon presentation thereof for that purpose at the office or agency maintained by the Railroad Company in said City of Chicago or in said Borough of Manhattan, and in the manner, subject to the limitations, and upon payment of the charges provided in the Mortgage, coupon Bonds of this Series, with all unmatured coupons and any matured coupons in default appertaining thereto, may be exchanged for a like aggregate principal amount of registered Bonds without coupons of this Series of authorized denominations, coupon Bonds of this Series of the denominations of $100 and $500 aggregating $1,000 in principal amount, with all unmatured coupons and any matured coupons in default appertaining thereto, may be exchanged for a coupon Bond of this Series of the denomination of $1,000 bearing all unmatured coupons and any matured coupons in default appertaining thereto, and registered Bonds without coupons of this Series may be exchanged for a like aggregate principal amount of coupon Bonds of this Series of the denomination of $1,000 and bearing all unmatured coupons and any matured coupons in default appertaining thereto, or for a like aggregate principal amount of registered Bonds without coupons of this Series of other authorized denominations.

As provided in the Mortgage, no recourse shall be had for the payment of the principal of or the interest on this Bond, or for any claim based hereon, or because of the creation of indebtedness represented hereby, or otherwise in respect hereof, or based on or in respect of the Mortgage or any indenture supplemental thereto, against any past, present or future incorporator, stockholder, officer or director, as such, of the Railroad Company or of any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all

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such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

Neither this Bond nor any interest coupon appertaining hereto shall be valid or become obligatory for any purpose unless and until the certificate of authentication hereon shall have been signed by the Trustee under the Mortgage.

IN WITNESS WHEREOF, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company has caused this Bond to be signed by its President or one of its Vice Presidents, and its corporate seal to be affixed hereto and attested by its Secretary or an Assistant Secretary, and coupons for interest bearing the facsimile signature of its Treasurer to be attached hereto, and this Bond to be dated as of the first day of January, 1944.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

By.....
President

ATTEST:

.....
Secretary

(Form of Coupon for Coupon Bonds of Series A)

No..... $.....

On the first day of ....., 19...., unless the Bond hereinafter mentioned shall have been called for previous redemption and payment thereof duly provided for, Chicago, Milwaukee, St. Paul and Pacific Railroad Company will pay to bearer upon surrender of this coupon at its office or agency in the City of Chicago, State of Illinois, or, at the option of the bearer, at its office or agency in the Borough of Manhattan, City and State of New York, ... 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, being 6 months' in-

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terest then payable on its First Mortgage 4% Bond, Series A, due January 1, 1994, No. .....

.....
Treasurer

(Form of Registered Bond without Coupons of Series A)

No..... $.....

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

FIRST MORTGAGE 4% BOND, SERIES A,
DUE JANUARY 1, 1994

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a corporation duly organized and existing under the laws of the State of Wisconsin, and having its principal office in the City of Chicago, State of Illinois (herein referred to as the "Railroad Company"), for value received, hereby promises to pay to ....., or registered assigns, on January 1, 1994, 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 said principal sum in like coin or currency from and including the date hereof at the rate of 4% per annum, semi-annually on the first days of January and July in each year, until said principal sum becomes due and payable as herein provided and, if default be made in the payment of said principal sum when so due and payable, thereafter (to the extent permitted by law) at the highest rate of interest borne by any of the Bonds outstanding under the Mortgage hereinafter referred to until the Railroad Company's obligation with respect to the payment of said principal sum shall be discharged as provided in the Mortgage.

The principal of, premium if any, and interest on this Bond are payable at the office or agency of the Railroad Company in the City of Chicago, State of Illinois, or at the option of

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the registered holder hereof at the office or agency of the Railroad Company in the Borough of Manhattan, City and State of New York.

This Bond is one of the First Mortgage Bonds of the Railroad Company (herein referred to as the "Bonds"), not limited in aggregate principal amount except as provided in the Mortgage, issued and to be issued under, and all equally and ratably secured by, a mortgage and deed of trust dated as of January 1, 1944 (herein referred to as the "Mortgage"), duly executed and delivered by the Railroad Company to Continental Illinois National Bank and Trust Company of Chicago, Trustee, and its successors in trust (which Trustee and its successors in trust are hereinafter referred to as the "Trustee"), to which Mortgage and all indentures supplemental thereto reference is hereby made for a description of the property mortgaged and pledged, the nature and extent of the security, the rights of and restrictions upon the Railroad Company and the holders of the Bonds and coupons in respect of such security, the rights, duties and immunities of the Trustee and the terms and conditions under which the Bonds are, and may be, issued and secured. By the terms of the Mortgage, the Bonds may be for various principal sums and are issuable in series, and the Bonds of any series may differ from the Bonds of any other series as to denomination, date, maturity, interest rate, redemption and otherwise, all as in the Mortgage provided. Bonds of Series A, of which this is one, are designated as the "First Mortgage 4% Bonds, Series A, due January 1, 1994," and the aggregate principal amount thereof is limited to $59,515,100.

If an event of default as defined in the Mortgage shall occur, the principal of this Bond may be declared or may become due and payable prior to the stated date of maturity hereof in the manner, with the effect and subject to the conditions provided in the Mortgage.

The Mortgage contains provisions permitting the Railroad Company and the Trustee at any time or times, with the consent of the holders of not less than 75% in principal amount of all of the Bonds at the time outstanding, evidenced as in the Mortgage provided, and with the approval of the Interstate Commerce Commission or other public regu-

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latory body having jurisdiction in the premises, to extend the time or times of payment of the principal, either before or after the principal is due, of all of the Bonds of any or all series then outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, or to extend the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all series then outstanding, whether bearing fixed or contingent interest, for a period not exceeding 5 years after such interest is due but not beyond the original or extended date or dates for the payment of the principal of such Bonds. The Mortgage also contains provisions permitting the Railroad Company and the Trustee at any time or times, with the consent of the holders of not less than 66⅔% in principal amount of the Bonds to be directly affected thereby, evidenced as in the Mortgage provided, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, to modify, alter, add to or eliminate in any manner any of the provisions of the Mortgage or of any indenture supplemental thereto or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, or to sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property, or to sanction or approve any plan for the reorganization, readjustment or liquidation of the Railroad Company. Any such consent of the holder of this Bond (unless effectively revoked as provided in the Mortgage) shall be conclusive and binding upon such holder and upon all future holders of this Bond. Without the consent of the holder of this Bond, no such extension, modification, alteration, addition, elimination, sanction or approval shall (i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on this Bond, or change the place or the medium of payment thereof, or (ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage or of any indenture supplemental thereto, with respect to any property

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covered thereby, otherwise than as permitted by the Mortgage, or (iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds.

This Bond, or portions thereof amounting to $1,000 or multiples of $1,000, is subject to redemption at any time prior to maturity for the purposes of certain sinking funds or at the option of the Railroad Company, in each case upon publication of notice of such redemption once each week for 4 successive weeks in a newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, City and State of New York, and in a like newspaper published on each business day and of general circulation in the City of Chicago, State of Illinois, the first publication to be not less than 30 days and not more than 60 days before the date fixed for redemption if such date is an interest-payment date, and not less than 60 days and not more than 90 days before the date fixed for redemption if such date is not an interest-payment date, all as provided in the Mortgage, at a redemption price equal to the principal amount to be redeemed, plus all accrued interest on such principal amount to the date fixed for redemption and a premium equal to 5% of such principal amount decreased by ¼ of 1% for each two full calendar years elapsed after January 1, 1945, to and including January 1, 1985, but without premium if redeemed after January 1, 1985.

The Bonds of Series A are entitled to the benefits of annual payments into the Series A Sinking Fund out of Available Net Income, if any, as defined and applicable for the purpose under the terms of the Mortgage, of an amount equal to ¼ of 1% of the aggregate principal amount of Bonds of Series A authorized to be issued as aforesaid, plus an amount equal to one year's interest on all Bonds of Series A acquired through the operation of the Series A Sinking Fund.

This Bond is transferable by the registered holder hereof in person (or by his attorney duly authorized in writing) at the office or agency maintained by the Railroad Company in said City of Chicago or in said Borough of Manhattan, on registry books kept for such purpose at such office or

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agency, but only in the manner, subject to the limitations, upon payment of the charges provided in the Mortgage, and upon surrender and cancellation of this Bond. Upon any such transfer a new registered Bond or Bonds without coupons of the same series and maturity date and of authorized denominations for the same aggregate principal amount will be issued to the transferee in exchange therefor.

The Railroad Company, the Trustee, any paying agent and any bond registrar may deem and treat the registered holder hereof as the absolute owner of this Bond (whether or not this Bond shall have become due and payable), for the purpose of receiving any payment then being made of or on account of the principal hereof, premium if any, and interest hereon, and for all other purposes, and neither the Railroad Company nor the Trustee nor any paying agent nor any bond registrar shall be bound by any notice to the contrary.

The coupon Bonds of this Series are issuable in denominations of $100, $500 and $1,000. The registered Bonds without coupons of this Series are issuable in denominations of $1,000, $5,000 and $10,000, and, with the consent of the Railroad Company, in denominations in excess of $10,000. Upon presentation thereof for that purpose at the office or agency maintained by the Railroad Company in said City of Chicago or in said Borough of Manhattan, and in the manner, subject to the limitations, and upon payment of the charges provided in the Mortgage, coupon Bonds of this Series, with all unmatured coupons and any matured coupons in default appertaining thereto, may be exchanged for a like aggregate principal amount of registered Bonds without coupons of this Series of authorized denominations, coupon Bonds of this Series of the denominations of $100 and $500 aggregating $1,000 in principal amount, with all unmatured coupons and any matured coupons in default appertaining thereto, may be exchanged for a coupon Bond of this Series of the denomination of $1,000 bearing all unmatured coupons and any matured coupons in default appertaining thereto, and registered Bonds without coupons of this Series may be exchanged for a like aggregate principal amount of coupon Bonds of this Series of the denomination of $1,000 and bearing all unmatured coupons and any matured coupons in

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default appertaining thereto, or for a like aggregate principal amount of registered Bonds without coupons of this Series of other authorized denominations.

As provided in the Mortgage, no recourse shall be had for the payment of the principal of or the interest on this Bond, or for any claim based hereon, or because of the creation of indebtedness represented hereby, or otherwise in respect hereof, or based on or in respect of the Mortgage or any indenture supplemental thereto, against any past, present or future incorporator, stockholder, officer or director, as such, of the Railroad Company or of any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

This Bond shall not be valid or become obligatory for any purpose unless and until the certificate of authentication hereon shall have been signed by the Trustee under the Mortgage.

In Witness Whereof, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company has caused this Bond to be signed by its President or one of its Vice Presidents, and its corporate seal to be affixed hereto and attested by its Secretary or an Assistant Secretary, and this Bond to be dated the ..... day of ....., 19.....

Chicago, Milwaukee, St. Paul and Pacific Railroad Company

By .....
President

Attest:

.....
Secretary

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(Form of Trustee's Certificate of Authentication on Bonds of all Series)

Trustee's Certificate of Authentication.

This is one of the Bonds of Series ..... described in the above mentioned Mortgage.

.....
As Trustee

By.....
Authorized Officer

and

Whereas, the Bonds of series other than Series A and the coupons to be attached to such thereof as may be coupon Bonds are to be substantially in the forms hereinabove set forth for the Bonds of Series A, but with such omissions, insertions and variations as may be authorized and permitted by the Mortgage; and

Whereas, the execution and delivery of this Mortgage have been authorized by resolutions duly adopted by the stockholders and Board of Directors of the Railroad Company as reorganized, and are in accordance with the orders of the Court; and

Whereas, all acts and things prescribed by law and by the articles of incorporation and by-laws of the Railroad Company necessary to make the Bonds of Series A when executed by the Railroad Company and authenticated by the Trustee, as in the Mortgage provided, valid, binding and legal obligations of the Railroad Company, and to make the Mortgage a valid and binding mortgage and deed of trust to secure the payment of the Bonds, have been performed, and the execution and delivery of the Mortgage have been duly authorized in all respects;

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Now, Therefore, This Indenture Witnesseth, that in order to secure the payment of the principal of, premium, if any, and interest on all the Bonds at any time issued and outstanding hereunder, according to their tenor and effect, and the performance and observance of the covenants and conditions contained in the Bonds and in the Mortgage, and in consideration of the premises and the acceptance by the Trustee of the trusts hereby created, and of the acceptance of the Bonds (and coupons, if any) by the holders thereof, and of the sum of One Dollar in hand paid by the Trustee to the Railroad Company upon the execution and delivery of the Mortgage, receipt whereof is hereby acknowledged, and pursuant to the order of the Court in the aforesaid reorganization proceedings dated November 26, 1945, the Railroad Company has granted, bargained, sold, conveyed, released, confirmed, mortgaged, pledged, assigned, transferred and set over, and by these presents does grant, bargain, sell, convey, release, confirm, mortgage, pledge, assign, transfer and set over, unto the Trustee, and to its successors in the trust, and its and their assigns forever, subject to the terms of the Mortgage, all and singular the following described property, rights, privileges and franchises of the Railroad Company:

First: All of the Railroad Company's right, title and interest in and to all and singular the lines of railroad now owned or operated by the Railroad Company, including specifically but not exclusively the following:

Group A: Main lines, first main track:

	Miles
Item (1). Beginning near Western Avenue in the City of Chicago, Illinois, and extending in a general northerly, northwesterly and westerly direction through the stations of Milwaukee, Portage and LaCrosse in the State of Wisconsin, River Junction, St. Paul and Minneapolis in the State of Minnesota, Mobridge in the State of South Dakota, Marmarth in the State of North Dakota, Miles City and Butte in the State of Montana, Plummer Junction in the State of Idaho, and Marengo, Beverly, Ellensburg and Cle Elum in the State of Washington, to a connection with the line of railway of Pacific Coast Railroad Company at the station of Maple Valley, Washington, and having a length of approximately	2,147.00
Item (2). Beginning near the south line of Kinzie Street in the City of Chicago, Illinois, and extending in a general northerly direction to Laurel Avenue in the Village of Wilmette, Illinois, and having a length of approximately..	13.49
Item (3). Beginning at a connection with the line described in Item (1) of this *Group A* at Pacific Junction, Illinois, and extending in a general westerly direction through Savanna in the State of Illinois, and Green Island, Browns and Manilla in the State of Iowa, to Council Bluffs, Iowa, and having a length of approximately....	479.56
Item (4). Beginning at a connection with the line described in Item (3) of this *Group A* in the Northeast Quarter of Section 26, Township 82 North, Range 38 West, in Manilla, Iowa, and extending in a general northwesterly direction through Sioux City in the State of Iowa, Elk Point and Napa in the State of South Dakota, and through a connection with the line described in Item (5) of this *Group A* at Mitchell, South Dakota, to a connection with the line described in Item (1) of this *Group A* at Aberdeen, South Dakota, and having a length of approximately ..	355.31
Item (5). Beginning at a connection with the line described in Item (1) of this *Group A* near Brookfield Avenue in Brookfield, Wisconsin, and	

18

19

extending in a general westerly direction via Milton Junction, Madison and Prairie du Chien in the State of Wisconsin, Marquette, Calmar, Mason City and Spencer in the State of Iowa, and Canton and Mitchell in the State of South Dakota, to Eighth Street in Rapid City, South Dakota, and having a length of approximately.. 840.85

ITEM (6). Beginning at a connection with the line described in ITEM (5) of this *Group A* near Marville Street in Calmar, Iowa, and extending in a general northwesterly direction through Conover in the State of Iowa and Austin, Ramsey, Farmington and Mendota in the State of Minnesota, to South Minneapolis, Minnesota, and having a length of approximately..... 171.44

ITEM (7). Beginning at a connection with the line described in ITEM (1) of this *Group A* at Bridge Switch, Minnesota, and extending in a general westerly direction through La Crescent, Isinours, Ramsey, Wells and Pipestone in the State of Minnesota, and Madison in the State of South Dakota, to Wessington Springs, South Dakota, and having a length of approximately.. 408.21

ITEM (8). Beginning at Sixteenth (Farnham) Street in the City of Des Moines, Iowa, and extending in a general northwesterly direction through a connection with the line described in ITEM (3) of this *Group A* at Herndon, Iowa, to a connection with the line described in ITEM (5) of this *Group A* at Fifth Avenue East in Spencer, Iowa, and having a length of approximately 156.40

ITEM (9). Beginning at a connection with the line described in ITEM (1) of this *Group A* at Techny, Illinois, and extending in a general southwesterly direction to a connection with the line described in item (2) of granting clause SEVENTH at said Techny, Illinois; also a line from a connection with the line described in item

20

(2) of granting clause SEVENTH at Bensenville, Illinois, to a connection with the line described in ITEM (3) of this *Group A* at Bensenville, Illinois, the lines described in this ITEM (9) having a total length of approximately..... 3.71

ITEM (10). Beginning near Lake Street in the City of Racine, Wisconsin, and extending in a general westerly direction to a connection with the line described in ITEM (1) of this *Group A* near Racine Avenue in Sturtevant, Wisconsin, and having a length of approximately..... 7.61

ITEM (11). Beginning at a connection with the line described in ITEM (1) of this *Group A* in the Southwest Quarter of Section 21, Township 3 North, Range 22 East, in Sturtevant, Wisconsin, and extending in a general southwesterly direction through Bardwell and Beloit in the State of Wisconsin and Rockton in the State of Illinois to a connection with the line described in ITEM (3) of this *Group A* in the Southeast Quarter of Section 27, Township 25 North, Range 6 East, in Kittredge, Illinois, and having a length of approximately..... 112.88

ITEM (12). Beginning at Steward Junction, Illinois, and extending in a general southerly direction to Seatonville Junction, Illinois, except for the line described in item (14) of granting clause SEVENTH at Mendota, Illinois, and except for the line described in item (17) of granting clause SEVENTH at Ladd, Illinois, the line described in this ITEM (12) having a length of approximately 36.61

ITEM (13). Beginning at Harper Avenue in Granville, Illinois, and extending in a general northeasterly direction to Church Avenue in Oglesby, Illinois, and having a length of approximately 10.51

ITEM (14). Beginning at a connection with the line described in ITEM (1) of this *Group A*

at Grand Avenue Junction in the City of Milwaukee, Wisconsin, and extending in a general northwesterly direction through North Milwaukee and Horicon in the State of Wisconsin to a connection with the line described in ITEM (1) of this *Group A* at Superior Street in Portage, Wisconsin, and having a length of approximately 94.05

ITEM (15). Beginning at a connection with the line described in ITEM (14) of this *Group A* near Hampton Avenue in North Milwaukee, Wisconsin, and extending in a general northerly direction to a point in the Northwest Quarter of Section 32, Township 48 North, Range 29 West, in Champion, Michigan, and having a length of approximately..... 253.25

ITEM (16). Beginning near South 22nd Street in Muskego Yard in the City of Milwaukee, Wisconsin, and extending in a general westerly direction to a connection with the line described in ITEM (1) of this *Group A* near the Milwaukee and Watertown Plank Road in Elm Grove, Wisconsin, and having a length of approximately 7.45

ITEM (17). Beginning at a connection with the line described in ITEM (1) of this *Group A* near Monroe Street in New Lisbon, Wisconsin, and extending in a general northerly direction through Babcock, Wisconsin, to a point in the Southwest Quarter of Section 1, Township 39 North, Range 6 East, in Woodruff, Wisconsin, and having a length of approximately..... 166.46

ITEM (18). Beginning at a connection with the line described in ITEM (3) of this *Group A* in the Southeast Quarter of Section 9, Township 24 North, Range 5 East, in Ashdale, Illinois, and extending in a general southwesterly direction through Ebner, Illinois, to a point near 10th Street in East Moline, Illinois, and having a length of approximately..... 50.82

22

ITEM (19). Beginning near College Avenue in Davenport, Iowa, and extending in a general southwesterly direction to a point near Schmidt Road in West Davenport, Iowa, and having a length of approximately..... 1.69

ITEM (20). Beginning at a connection with the line described in ITEM (3) of this *Group A* at Green Island, Iowa, and extending in a general northerly direction through Dubuque and Marquette in the State of Iowa and La Crescent in the State of Minnesota, to a connection with the line described in ITEM (1) of this *Group A* at Bridge Switch, Minnesota, and having a length of approximately 148.27

ITEM (21). Beginning near Warren Street in Muscatine, Iowa, and extending in a general southwesterly direction through Ottumwa, Iowa, and Chillicothe and Excelsior Springs in the State of Missouri, to Birmingham, Missouri, and having a length of approximately..... 271.29

ITEM (22). Beginning at a connection with the line described in ITEM (21) of this *Group A* at Ottumwa Junction, Iowa, and extending in a general southeasterly direction to a point near Walnut Street in Ottumwa, Iowa, and having a length of approximately..... 2.58

ITEM (23). Beginning at a connection with the line described in ITEM (5) of this *Group A* at Milton Junction, Wisconsin, and extending in a general westerly direction through a connection with the line described in ITEM (3) of *Group B* near Wall Street in Janesville, Wisconsin, to a point near Nichols Street in Mineral Point, Wisconsin, and having a length of approximately 90.80

ITEM (24). Beginning at a connection with the line described in ITEM (1) of this *Group A* at Plummer Junction, Idaho, and extending in a general northwesterly direction to a point in the

23

Northwest Quarter of Section 9, Township 23 North, Range 45 East, in Manito, Washington, and having a length of approximately..... 19.87

ITEM (25). Beginning at a point near the crossing of the tracks of the Northern Pacific Railway Company in the South Half of Section 16, Township 25 North, Range 43 East, in the City of Spokane, Washington, and extending in a general westerly direction to the west line of Center Street in said Spokane, and having a length of approximately..... 1.70

ITEM (26). Beginning at a connection with the line of Pacific Coast Railroad Company at the north line of Island No. 1 in Section 18, Township 22 North, Range 14 East, in the City of Seattle, Washington, and extending in a general northwesterly direction to a point in Railroad Avenue between Atlantic Street and Connecticut Street in said Seattle, and having a length of approximately 1.47

ITEM (27). Beginning at Tacoma Junction, Washington, and extending in a general westerly direction to Pacific Avenue in the City of Tacoma, Washington, and having a length of approximately 2.10

Total miles of main track in *Group A*..... 5,855.38

Group B: Branch lines, first main track:

ITEM (1). Beginning at a connection with the line described in ITEM (2) of *Group A* at Chicago and Evanston Junction, Illinois, and extending in a general westerly direction to a connection with the line described in ITEM (1) of *Group A* at Pacific Junction, Illinois, and having a length of approximately..... 3.42

ITEM (2). Beginning at a connection with the line described in ITEM (5) of *Group A* at Fourth

24

Avenue East in Spencer, Iowa, and extending in a general northerly direction to Parsons Street in Spirit Lake, Iowa, and having a length of approximately 20.60

ITEM (3). Beginning at a connection with the line described in ITEM (1) of *Group A* about 400 feet northerly of the Elgin, Joliet and Eastern Railway crossing in Rondout, Illinois, and extending in a general northwesterly direction through Bardwell, Wisconsin, to a connection with the line described in ITEM (23) of *Group A* near Wall Street in Janesville, Wisconsin, and having a length of approximately..... 66.50

ITEM (4). Beginning at a connection with the line described in ITEM (11) of *Group A* about 1600 feet northerly of Warren Street in Rockton, Illinois, and extending in a general southerly direction to a point about 1000 feet southeasterly of Cedar Street in Rockford, Illinois, and having a length of approximately..... 15.04

ITEM (5). Beginning about 100 feet easterly of Seventh Street in Rockford, Illinois, and extending in a general southerly direction to a point in the Southeast Quarter of Section 11, Township 43 North, Range 1 East, in Camp Grant, Illinois, and having a length of approximately 4.48

ITEM (6). Beginning at a connection with the line described in item (17) of granting clause SEVENTH at a point about 500 feet east of Main Street in Ladd, Illinois, and extending in a general northerly direction to a point about 300 feet north of Cherry Avenue in Cherry, Illinois, and having a length of approximately..... 2.98

ITEM (7). Beginning at a connection with the line described in ITEM (14) of *Group A* at a point about 200 feet south of Hampton Avenue in North Milwaukee, Wisconsin, and ex-

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tending in a general southeasterly direction to a point about 300 feet south of West Juneau Avenue (formerly Chestnut Street) in the City of Milwaukee, Wisconsin, (said line being known as the Chestnut Street Line in said Milwaukee) and having a length of approximately 6.27

ITEM (8). Beginning at a connection with the line described in ITEM (14) of *Group A* at a point in the Northwest Quarter of Section 8, Township 8 North, Range 21 East, in Granville, Wisconsin, and extending in a general westerly direction to a point about 400 feet east of Hartford Road in North Lake, Wisconsin, and having a length of approximately..... 19.60

ITEM (9). Beginning at a connection with the line described in ITEM (14) of *Group A* at a point about 500 feet southeasterly of Pleasant Street in Iron Ridge, Wisconsin, and extending in a general northerly direction to about Scott Street in Fond du Lac, Wisconsin, and having a length of approximately..... 29.03

ITEM (10). Beginning at a connection with the line described in ITEM (14) of *Group A* at a point near Main Street in Horicon, Wisconsin, and extending in a general northwesterly direction to Huron Street in Berlin, Wisconsin, and having a length of approximately..... 42.30

ITEM (11). Beginning at a connection with the line described in ITEM (10) of this *Group B* at a point near Jefferson Street in Brandon, Wisconsin, and extending in a general westerly direction to a point in the Southwest Quarter of Section 5, Township 14 North, Range 13 East, in Markesan, Wisconsin, and having a length of approximately 11.49

ITEM (12). Beginning at a connection with the line described in ITEM (10) of this *Group B* at Doty Street in Ripon, Wisconsin, and extending

26

in a general northeasterly direction to a point near Division Street in Oshkosh, Wisconsin, and having a length of approximately..... 18.78

ITEM (13). Beginning at a connection with the line described in ITEM (10) of this *Group B* at a point in the Southwest Quarter of Section 21, Township 17 North, Range 14 East, in Rush Lake, Wisconsin, and extending in a general northeasterly direction to a point near Division Street in Winneconne, Wisconsin, and having a length of approximately..... 14.82

ITEM (14). Beginning at a connection with the line described in ITEM (14) of *Group A* at Beaver Dam Junction, Wisconsin, and extending in a general southerly direction to a point about 300 feet north of Center Street in Beaver Dam, Wisconsin, and having a length of approximately... 2.11

ITEM (15). Beginning at a connection with the line described in ITEM (14) of *Group A* at Fox Lake Junction, Wisconsin, and extending in a general northerly direction to a point near Trenton Street in Fox Lake, Wisconsin, and having a length of approximately..... 2.76

ITEM (16). Beginning at a connection with the line described in ITEM (15) of *Group A* at a point near Fifth Street in Channing, Michigan, and extending in a general northwesterly direction to a point about 250 feet northwesterly of Lake Street in Ontonagon, Michigan, and having a length of approximately..... 92.75

ITEM (17). Beginning at a connection with the line described in ITEM (15) of *Group A* near Milwaukee Street in Hilbert, Wisconsin, and extending in a general northerly direction to a connection with the line described in ITEM (13) of *Group C* at a point in the Northeast Quarter of Section 1, Township 19 North, Range 19 East, in said Hilbert; also beginning at a point about 650

27

feet east of De Pere Street in Menasha, Wisconsin, and extending in a general northwesterly direction to a point about 300 feet easterly of Oneida Street in Appleton, Wisconsin, the lines described in this ITEM (17) having a total length of approximately 5.94

ITEM (18). Beginning at a connection with the line described in ITEM (15) of *Group A* at a point near Jefferson Street in Green Bay, Wisconsin, and extending in a general easterly direction to a point near Crooks Street in said Green Bay, and having a length of approximately..... .64

ITEM (19). Beginning at a connection with the line described in ITEM (14) of *Group C* at a point about 500 feet west of Cemetery Road in Oconto, Wisconsin, and extending in a general easterly direction to Bacon Avenue in said Oconto, and having a length of approximately..... 1.02

ITEM (20). Beginning at a connection with the line described in ITEM (15) of *Group A* at a point in the Southwest Quarter of Section 22, Township 32 North, Range 20 East, in Crivitz, Wisconsin, and extending in a general southeasterly direction, through Marinette, Wisconsin, to Kirby Street in Menominee, Michigan, and having a length of approximately..... 22.56

ITEM (21). Beginning at a connection with the line described in ITEM (16) of this *Group B* at Kelso Junction, Michigan, and extending in a general westerly direction to Carnegie Avenue in Iron River, Michigan, and having a length of approximately 26.55

ITEM (22). Beginning at a connection with the line described in item (60) of granting clause SEVENTH at Crystal Avenue in Crystal Falls, Michigan, and extending in a general northerly direction to a point north of Morton Avenue in

28

said Crystal Falls, and having a length of approximately ..... .52

ITEM (23). Beginning at a connection with the line described in ITEM (1) of *Group A* at Watertown Junction, Wisconsin, and extending in a general westerly direction to a connection with the line described in ITEM (5) of *Group A* near Main Street in Madison, Wisconsin, and having a length of approximately 36.52

ITEM (24). Beginning at a connection with the line described in ITEM (1) of *Group A* at Superior Street in Portage, Wisconsin, and extending in a general southeasterly direction to a connection with the line described in ITEM (23) of this *Group B* near Blount Street in Madison, Wisconsin, and having a length of approximately..... 34.28

ITEM (25). Beginning at a connection with the line described in ITEM (17) of *Group A* at a point in the Northeast Quarter of Section14, Township 21 North, Range 3 East, in Babcock, Wisconsin, and extending in a general northwesterly and northeasterly direction through Dexterville, Wisconsin, to 4th Avenue in Pittsville, Wisconsin, and having a length of approximately 9.86

ITEM (26). Beginning at a connection with the line described in ITEM (17) of *Group A* at Nekoosa Junction, Wisconsin, and extending in a general southerly direction to a point in the Northeast Quarter of Section 10, Township 21 North, Range 5 East, in Nekoosa, Wisconsin, and having a length of approximately..... 2.91

ITEM (27). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point near Wolcott Street in Sparta, Wisconsin, and extending in a general southerly direction to Decker Street in Viroqua, Wisconsin, and having a length of approximately 34.70

29

ITEM (28). Beginning at a connection with the line described in ITEM (27) of this *Group B* at Westby Junction, Wisconsin, and extending in a general westerly direction to a point in the Northeast Quarter of Section 28, Township 14 North, Range 6 West, in Chaseburg, Wisconsin, and having a length of approximately..... 15.82

ITEM (29). Beginning at a connection with the line described in ITEM (1) of *Group A* near Maiden Street in Wabasha, Minnesota, and extending in a general northwesterly direction to a point in the Southwest Quarter of Section 9, Township 27 North, Range 9 West, in Magenta (Eau Claire), Wisconsin, and having a length of approximately 50.70

ITEM (30). Beginning at a connection with the line described in ITEM (29) of this *Group B* at Red Cedar Junction, Wisconsin, and extending in a general northerly direction to a point in the Northeast Quarter of Section 27, Township 28 North, Range 13 West, in Menomonie, Wisconsin, and having a length of approximately 15.13

ITEM (31). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point about 160 feet east of Cedar Street in Red Wing, Minnesota, and extending in a general westerly direction to a connection with the line described in ITEM (12) of *Group C* at a point about 100 feet east of Cedar Street in said Red Wing, and having a length of approximately..... .01

ITEM (32). Beginning at a connection with the line described in ITEM (1) of *Group A* at St. Croix Junction, Minnesota, and extending in a general northerly direction to a point near Chestnut Street in Stillwater, Minnesota, and having a length of approximately 22.73

ITEM (33). Beginning at a connection with the line described in ITEM (1) of *Group A* near St.

30

Clair Street in the City of St. Paul, Minnesota, and extending in a general southwesterly direction to a point near Cleveland Street in said St. Paul, with a spur to the Ford plant in said St. Paul, and having a length of approximately.... 4.45

ITEM (34). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northeast Quarter of Section 13, Township 115 North, Range 25 West, in Cologne, Minnesota, and extending in a general easterly direction to a connection with the line described in ITEM (69) of this *Group B* near Oak Street in Farmington, Minnesota, and having a length of approximately 37.64

ITEM (35). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the West Half of Section 14, Township 115 North, Range 28 West, in Glencoe, Minnesota, and extending in a general northwesterly direction to Second Avenue in Hutchinson, Minnesota, and having a length of approximately..... 13.42

ITEM (36). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Southwest Quarter of Section 15, Township 121 North, Range 46 West, in Ortonville, Minnesota, and extending in a general northerly direction to Eleventh Street in Fargo, North Dakota, and having a length of approximately 116.97

ITEM (37). Beginning at a connection with the line described in ITEM (1) of *Group A* at Milbank, South Dakota, and extending in a general northwesterly direction to Adams Street in Sisseton, South Dakota, and having a length of approximately 37.20

ITEM (38). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northwest Quarter of Section 2, Town-

31

ship 122 North, Range 59 West, in Andover, South Dakota, and extending in a general northerly direction to a point about 600 feet north of First Avenue in Brampton, North Dakota, and having a length of approximately..... 42.63

ITEM (39). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point about 1100 feet west of Main Street in Aberdeen, South Dakota, and extending in a general northerly direction to a point in the Southeast Quarter of Section 34, Township 134 North, Range 64 West, in Edgeley, North Dakota, and having a length of approximately..... 64.28

ITEM (40). Beginning at a connection with the line described in ITEM (1) of *Group A* at Orient Line Junction in Roscoe, South Dakota, and extending in a general southerly direction to a point about 300 feet south of Hand Street in Orient, South Dakota, and having a length of approximately 40.99

ITEM (41). Beginning at a connection with the line described in ITEM (1) of *Group A* at Booth Street in Roscoe, South Dakota, and extending in a general northwesterly direction to a connection with the line described in ITEM (8) of *Group C* near the east and west quarter section line in Section 17, Township 132 North, Range 76 West, near Linton, North Dakota, and having a length of approximately..... 74.33

ITEM (42). Beginning at a connection with the line described in ITEM (1) of *Group A* at Java Junction, South Dakota, and extending in a general southwesterly direction to a point in the Northwest Quarter of Section 3, Township 123 North, Range 75 West, in Java, South Dakota, and having a length of approximately..... 1.04

ITEM (43). Beginning at a connection with the line described in ITEM (3) of *Group A* at a point

32

about 1000 feet westerly of Narragansett Avenue, in Galewood, Illinois, and extending in a general northerly direction to Montrose Avenue in Dunning, Illinois, and having a length of approximately 2.97

ITEM (44). Beginning at a connection with the line described in ITEM (3) of *Group A* at a point about 500 feet westerly of Seventh Street in Kirkland, Illinois, and extending in a general southeasterly direction to a point near South Lake Street in Aurora, Illinois, and having a length of approximately..... 40.18

ITEM (45). Beginning at a point near East Washington Avenue, in Joliet, Illinois, and extending in a general southeasterly direction to a point near the Momence Road in Delmar, Illinois, and having a length of approximately 37.44

ITEM (46). Beginning at a connection with the line described in ITEM (3) of *Group A* at a point just east of the crossing of the Chicago, Burlington & Quincy Railroad Company's line in Savanna, Illinois, and extending in a general southwesterly direction to Ayres Junction, Illinois, and having a length of approximately 3.15

ITEM (47). Beginning at a connection with the line described in ITEM (3) of *Group A* at a point westerly of Spring Street in Sabula, Iowa, and extending in a general westerly direction through Elk River Junction, Iowa, to a connection with the line described in said ITEM (3) at a point in the Southwest Quarter of Section 35, Township 84 North, Range 4 East, near Browns, Iowa, and having a length of approximately..... 24.23

ITEM (48). Beginning at a connection with the line described in ITEM (47) of this *Group B* at Elk River Junction, Iowa, and extending in a general southeasterly direction to a point just north of the north line of Tenth Avenue in Clinton, Iowa, and having a length of approximately 10.70

33

ITEM (49). Beginning at a connection with the line described in ITEM (19) of *Group A* at a point just west of College Avenue in Davenport, Iowa, and extending in a general easterly direction to a connection with the line described in item (3) of granting clause SEVENTH at College Avenue in said Davenport, and having a length of approximately ..... .02

ITEM (50). Beginning at a connection with the line described in ITEM (19) of *Group A* at a point just west of College Avenue in Davenport, Iowa, and extending in a general northwesterly direction to a point west of Vine Street in Dixon, Iowa, and having a length of approximately.... 22.02

ITEM (51). Beginning at a connection with the line described in ITEM (20) of *Group A* at Waukon Junction, Iowa, and extending in a general northwesterly direction to a point near School Street in Waukon, Iowa, and having a length of approximately 23.00

ITEM (52). Beginning at a connection with the line described in ITEM (20) of *Group A* at a point in the Southwest Quarter of Section 25, Township 102 North, Range 4 West, in Reno, Minnesota, and extending in a general northwesterly direction through Preston, Minnesota, to a connection with the line described in ITEM (7) of *Group A* at a point in the Northwest Quarter of Section 21, Township 103 North, Range 10 West, in Isinours, Minnesota, and having a length of approximately..... 62.24

ITEM (53). Beginning at a point about 300 feet northwesterly of Otto Street, in Maquoketa, Iowa, and extending in a general southerly direction through a connection with the line described in ITEM (3) of *Group A* at Delmar Junction, Iowa, to Third Street in DeWitt, Iowa, and having a length of approximately..... 20.40

34

ITEM (54). Beginning at a connection with the line described in ITEM (3) of *Group A* at Oxford Junction, Iowa, and extending in a general northwesterly direction through Monticello, Iowa, to a connection with the line described in ITEM (5) of *Group A* at Jackson Junction, Iowa, and having a length of approximately..... 105.02

ITEM (55). Beginning at a connection with the line described in ITEM (3) of *Group A* at a point in the Northeast Quarter of Section 5, Township 83 North, Range 5 West, in Paralta, Iowa, and extending in a general northwesterly direction through a connection with the line described in ITEM (54) of this *Group B* at Monticello, Iowa, and through Junction Switch, Iowa, to a point in the Southeast Quarter of Section 30, Township 88 North, Range 2 West, in Worthington, Iowa, and having a length of approximately.... 36.67

ITEM (56). Beginning at a connection with the line described in ITEM (3) of *Group A* at a point in the Northwest Quarter of Section 1, Township 83 North, Range 7 West, at Indian Creek, Iowa, near Marion, Iowa, and extending in a general southwesterly direction through Cedar Rapids, Iowa, to a connection with the line described in ITEM (21) of *Group A* at a point in the Southwest Quarter of Section 1, Township 72 North, Range 14 West, in Rutledge, Iowa, and having a length of approximately 91.29

ITEM (57). Beginning at a connection with the line described in ITEM (3) of *Group A* at a point in the Southeast Quarter of Section 36, Township 82 North, Range 26 West, in Madrid, Iowa, and extending in a general northerly direction to a point near Division Street in Boone, Iowa, and having a length of approximately..... 15.09

ITEM (58). Beginning at a connection with the line described in ITEM (3) of this *Group B* near Pleasant Street in Janesville, Wisconsin, and

35

extending in a general southerly direction to a connection with the line described in ITEM (11) of *Group A* at Beloit Junction, Wisconsin, and having a length of approximately..... 14.01

ITEM (59). Beginning at a connection with the line described in ITEM (23) of *Group A* near Center Street in Brodhead, Wisconsin, and extending in a general northwesterly direction to a point in the Southwest Quarter of Section 14, Township 4 North, Range 7 East, in New Glarus, Wisconsin, and having a length of approximately 22.78

ITEM (60). Beginning at a connection with the line described in ITEM (23) of *Group A* at a point in the Northeast Quarter of Section 9, Township 1 North, Range 4 East, in Gratiot, Wisconsin, and extending in a general westerly direction to Judgment Street in Shullsburg, Wisconsin, and having a length of approximately..... 11.71

ITEM (61). Beginning at a connection with the line described in ITEM (23) of *Group A* near Willow Street in Calamine, Wisconsin, and extending in a general westerly direction to a point near Pine Street in Platteville, Wisconsin, and having a length of approximately..... 17.17

ITEM (62). Beginning at a connection with the line described in ITEM (5) of *Group A* near Ogden Street in Mazomanie, Wisconsin, and extending in a general northeasterly direction to a point near Lincoln Avenue in Sauk City, Wisconsin, and having a length of approximately... 9.45

ITEM (63). Beginning at a connection with the line described in ITEM (5) of *Group A* at a point near Elm Street in Lone Rock, Wisconsin, and extending in a general northwesterly direction to Sixth Street in Richland Center, Wisconsin, and having a length of approximately..... 16.25

36

ITEM (64). Beginning at a connection with the line described in ITEM (5) of *Group A* at a point in the Southwest Quarter of Section 22, Township 95 North, Range 4 West, in Beulah, Iowa, and extending in a general southerly direction to a point near Chestnut Street in Elkader, Iowa, and having a length of approximately.... 19.20

ITEM (65). Beginning near Jersey Avenue in Mason City, Iowa, and extending in a general northerly direction to a connection with the line described in ITEM (6) of *Group A* at Ellis Avenue in Austin, Minnesota, and having a length of approximately 39.49

ITEM (66). Beginning at a connection with the line described in ITEM (5) of *Group A* at Marion Junction, South Dakota, and extending in a general southwesterly direction to a point in the Southeast Quarter of Section 9, Township 97 North, Range 57 West, in Menno, South Dakota, and having a length of approximately..... 21.76

ITEM (67). Beginning at a connection with the line described in ITEM (6) of *Group A* at Decorah Street in Conover, Iowa, and extending in a general northeasterly direction to Sumner Street in Decorah, Iowa, and having a length of approximately 9.98

ITEM (68). Beginning near First Street North in Faribault, Minnesota, and extending in a general easterly direction to a point in the Northwest Quarter of Section 6, Township 109 North, Range 13 West, in Zumbro Falls, Minnesota, and having a length of approximately..... 53.38

ITEM (69). Beginning at a connection with the line described in ITEM (6) of *Group A* at a point near Elm Street in Farmington, Minnesota, and extending in a general southwesterly direction to a point in the Northwest Quarter of Section 32, Township 109 North, Range 26 West, in Ben-

37

ning (Mankato), Minnesota, and having a length of approximately 56.23

ITEM (70). Beginning at a connection with the line described in ITEM (7) of *Group A* at Hollandale Junction, Minnesota, and extending in a general northerly direction to a point in the Southeast Quarter of Section 35, Township 104 North, Range 20 West, in Hollandale, Minnesota, and having a length of approximately..... 6.94

ITEM (71). Beginning at a connection with the line described in ITEM (7) of *Group A* at St. Clair Junction near Albert Lea, Minnesota, and extending in a general northwesterly direction to a point in the Southwest Quarter of Section 8, Township 107 North, Range 25 West, in St. Clair, Minnesota, and having a length of approximately 39.22

ITEM (72). Beginning at a connection with the line described in ITEM (7) of *Group A* near Park Street in Wells, Minnesota, and extending in a general Northwesterly direction to "D" Street in Mankato, Minnesota, and having a length of approximately 37.14

ITEM (73). Beginning at a connection with the line described in ITEM (7) of *Group A* at Josephine Avenue in Madison, South Dakota, and extending in a general northwesterly direction to a connection with the line described in ITEM (1) of *Group A* at a point in the Southwest Quarter of Section 25, Township 122 North, Range 58 West, in Bristol, South Dakota, and having a length of approximately 102.82

ITEM (74). Beginning at a connection with the line described in ITEM (4) of *Group A* at a point in the Southeast Quarter of Section 19, Township 91 North, Range 49 West, in Elk Point, South Dakota, and extending in a northerly direction through Canton and Sioux Falls, in the State of

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South Dakota, to a connection with the line described in ITEM (7) of *Group A* at Sioux Falls Junction, South Dakota, and having a length of approximately 102.57

ITEM (75). Beginning at a connection with the line described in ITEM (4) of *Group A* at a point in the Southwest Quarter of Section 22, Township 94 North, Range 56 West, in Napa, South Dakota, and extending in a general northwesterly direction through Tyndall, South Dakota, to a point in the Northeast Quarter of Section 14, Township 99 North, Range 68 West, in Platte, South Dakota, and having a length of approximately 82.05

ITEM (76). Beginning at a connection with the line described in ITEM (75) of this *Group B* near Lincoln Street in Tyndall, South Dakota, and extending in a general southwesterly direction to a point in the Southeast Quarter of Section 27, Township 93 North, Range 60 West, in Springfield, South Dakota, and having a length of approximately 12.29

ITEM (77). Beginning at a connection with the line described in ITEM (4) of *Group A* near Wilder Street in Tripp, South Dakota, and extending in a general northwesterly direction to a point about 1300 feet north of Main Street in Stickney, South Dakota, and having a length of approximately 41.12

ITEM (78) Beginning at a connection with the line described in ITEM (8) of *Group A* at a point in the Southeast Quarter of Section 34, Township 79 North, Range 25 West, in Clive, Iowa, and extending in a general northwesterly direction to a connection with the line described in ITEM (3) of *Group A* at Woodward Junction, Iowa, and having a length of approximately..... 22.07

ITEM (79). Beginning at a connection with the line described in ITEM (8) of *Group A* near Main

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Street in Rockwell City, Iowa, and extending in a general northwesterly direction through Storm Lake, Iowa, to a point in the Northwest Quarter of Section 36, Township 93 North, Range 37 West, in Rembrandt, Iowa, and having a length of approximately 51.91

ITEM (80). Beginning at a connection with the line described in ITEM (1) of *Group A* at Moreau Junction, South Dakota, and extending in a general southwesterly direction to a point in the Northwest Quarter of Section 32, Township 17 North, Range 22 East, in Isabel, South Dakota, and having a length of approximately..... 59.39

ITEM (81). Beginning at a connection with the line described in ITEM (80) of this *Group B* at a point in the Southwest Quarter of Section 31, Township 18 North, Range 28 East, in Trail City, South Dakota, and extending in a general southwesterly direction to a point in the Southeast Quarter of Section 4, Township 12 North, Range 17 East, in Faith, South Dakota, and having a length of approximately..... 106.49

ITEM (82). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northeast Quarter of Section 6, Township 22 North, Range 27 East, in McLaughlin, South Dakota, and extending in a general northwesterly direction to a point in the Northwest Quarter of Section 4, Township 135 North, Range 97 West, in New England, North Dakota, and having a length of approximately..... 133.96

ITEM (83). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northeast Quarter of Section 27, Township 8 North, Range 15 East, in Harlowton, Montana, and extending in a general northeasterly and northwesterly direction through Lewistown, Montana, to a point in the South Half of Section 18, Township 26 North, Range 4 West, in

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Agawam, Montana, and having a length of approximately 235.81

ITEM (84). Beginning at a connection with the line described in ITEM (83) of this *Group B* at Lewistown Junction, Montana, and extending in a general easterly direction to a point in the Northeast Quarter of Section 6, Township 14 North, Range 27 East, in Winnett, Montana, and having a length of approximately..... 58.96

ITEM (85). Beginning at a connection with the line described in ITEM (83) of this *Group B* at Roy-Winifred Junction, Montana, near Lewistown, Montana, and extending in a general northeasterly direction to a point in the Southwest Quarter of Section 8, Township 18 North, Range 22 East, in Roy, Montana, and having a length of approximately..... 42.49

ITEM (86). Beginning at a connection with the line described in ITEM (85) of this *Group B* at Roy Junction, Montana, and extending in a general northerly direction to a point in the Southeast Quarter of Section 23, Township 21 North, Range 18 East, in Winifred, Montana, and having a length of approximately..... 23.09

ITEM (87). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Southeast Quarter of Section 14, Township 6 North, Range 7 East, in Ringling Montana, and extending in a general northerly direction to a connection with the White Sulphur Springs and Yellowstone Park Railway Company's line in the Northwest Quarter of Section 6, Township 6 North, Range 8 East, near Dorsey, Montana, and having a length of approximately 3.62

ITEM (88). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northwest Quarter of Section 25, Township 2 North, Range 1 East, in Three Forks, Montana, and extending in a general south-

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easterly and northeasterly direction through Bozeman, Montana, to a point near Main Street in Menard, Montana, and having a length of approximately 62.73

ITEM (89). Beginning at a connection with the line described in ITEM (88) of this *Group B* at Belgrade Junction, Montana, and extending in a general northeasterly direction to Broadway Street in Belgrade, Montana, and having a length of approximately..... 5.22

ITEM (90). Beginning at a connection with the line described in ITEM (88) of this *Group B* at a point in the Southwest Quarter of Section 13, Township 2 South, Range 4 East, in Bozeman Hot Springs, Montana, and extending in a general southerly direction to a point in the Northwest Quarter of Section 11, Township 3 South, Range 4 East, in Gallatin Gateway, Montana, and having a length of approximately..... 4.99

ITEM (91). Beginning at a connection with the line described in ITEM (1) of *Group A* at Bonner Junction, Montana, and extending in a general northeasterly direction to a point in the Northwest Quarter of Section 29, Township 15 North, Range 13 West, in Cottonwood, Montana, and having a length of approximately..... 40.04

ITEM (92). Beginning at a connection with the line described in ITEM (1) of *Group A* near First Avenue in St. Maries, Idaho, and extending in a general southeasterly direction to a point in the Northeast Quarter of Section 24, Township 41 North, Range 1 West, in Purdue, Idaho; also beginning at a point in the Northeast Quarter of Section 36, Township 41 North, Range 1 West, in Bovill, Idaho, and extending in a general southeasterly direction to a point in the Northwest Quarter of Section 26, Township 40 North, Range 2 East, in Elk River, Idaho, the lines described in this ITEM (92) having a total length of approximately 69.98

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ITEM (93). Beginning at a point in the Northeast Quarter of Section 19, Township 25 North, Range 4 East, in Dishman, Washington, and extending in a general northeasterly direction through McGuires, Idaho, to a point in the Northeast Quarter of Section 4, Township 50 North, Range 5 West; also beginning at a point in the Southeast Quarter of Section 6, Township 50 North, Range 4 West, and extending in a general northeasterly direction to a point in the Northeast Quarter of Section 9, Township 50 North, Range 4 West, near Atlas, Idaho; also beginning at a point near the south line of Section 11, Township 50 North, Range 4 West, near Gibbs, Idaho, and extending in a general northeasterly direction to a point near Third Street in Coeur d'Alene, Idaho, the lines described in this ITEM (93) having a total length of approximately 19.44

ITEM (94). Beginning at a connection with the line described in ITEM (93) of this *Group B* at a point in the Northwest Quarter of Section 4, Township 50 North, Range 5 West, in McGuires, Idaho, and extending in a general northwesterly and northerly direction to a point near Fifth Avenue in Metaline Falls, Washington, and having a length of approximately..... 105.24

ITEM (95). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point near Ash Street in Warden, Washington, and extending in a general northeasterly direction to a point near Irby Street in Marcellus, Washington, and having a length of approximately.. 47.17

ITEM (96). Beginning at a connection with the line described in ITEM (95) of this *Group B* at a point in the Northwest Quarter of Section 9, Township 18 North, Range 30 East, in Tiflis, Washington, and extending in a general northwesterly direction to a point in the Southwest Quarter of Section 14, Township 19 North,

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Range 28 East, in Moses Lake, Washington, and having a length of approximately..... 15.54

ITEM (97). Beginning at a connection with the line described in ITEM (1) of *Group A* at Beverly Junction, Washington, and extending in a general southeasterly direction to a point in the South Half of Section 10, Township 13 North, Range 24 East, near Vernita, Washington, and having a length of approximately..... 20.79

ITEM (98). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northwest Quarter of Section 3, Township 22 North, Range 8 East, in Cedar Falls, Washington, and extending in a general northwesterly direction to a point in the Northwest Quarter of Section 6, Township 27 North, Range 7 East, in Monroe, Washington; also beginning at a point in the South Half of Section 32, Township 29 North, Range 5 East, in Lowell, Washington, and extending in a general northwesterly direction to Pacific Avenue in Everett, Washington, the lines described in this ITEM (98) having a total length of approximately..... 41.66

ITEM (99). Beginning at a connection with the line described in ITEM (1) of *Group A* at Bagley Junction, Washington, and extending in a general southwesterly direction to a point in the Northeast Quarter of Section 26, Township 22 North, Range 7 East, in Selleck, Washington; also beginning at Kanaskat Junction, Washington, and extending in a general southwesterly direction to a point in the Southeast Quarter of Section 16, Township 21 North, Range 7 East, in Bayne, Washington; also main track in the South Half of Section 24, Township 20 North, Range 6 East, in Enumclaw, Washington, the lines described in this ITEM (99) having a total length of approximately..... 5.72

ITEM (100). Beginning at a connection with the line described in ITEM (27) of *Group A* at a

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point near East "E" Street in the City of Tacoma, Washington, and extending in a general southerly direction to a point in the Southwest Quarter of Section 1, Township 12 North, Range 4 East, in Morton, Washington, and having a length of approximately..... 65.51

ITEM (101). Beginning at a connection with the line described in ITEM (100) of this *Group B* at a point in the Northeast Quarter of Section 36, Township 19 North, Range 3 East, in Frederickson, Washington, and extending in a general southwesterly direction to Helsing Junction, Washington, and having a length of approximately 48.50

ITEM (102). Beginning at a connection with the line described in ITEM (101) of this *Group B* at a point in the Southwest Quarter of Section 4, Township 16 North, Range 2 West, in Maytown, Washington, and extending in a general southerly direction to Chehalis Junction, Washington; also beginning at a point in the Southwest Quarter of Section 1, Township 13 North, Range 5 West at Dryad Junction, Washington, and extending in a general westerly direction to a point in the Northeast Quarter of Section 24, Township 14 North, Range 9 West, in Raymond, Washington, the lines described in this ITEM (102) having a total length of approximately 48.34

ITEM (103). Beginning at a connection with the line described in ITEM (100) of this *Group B* at Park Junction, Washington, and extending in a general easterly direction to a point in the Northeast Quarter of Section 27, Township 15 North, Range 6 East, in Ashford, Washington, and having a length of approximately..... 5.71

ITEM (104). Beginning at a point near Beech Street in Bellingham, Washington, and extending in a general northwesterly direction to a point in

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the Northeast Quarter of Section 7, Township 39 North, Range 7 East, in Glacier, Washington, and having a length of approximately..... 46.78

ITEM (105). Beginning at a connection with the line described in ITEM (104) of this *Group B* at a point in the Southwest Quarter of Section 19, Township 40 North, Range 4 East, in Hampton, Washington, and extending in a general westerly direction to a point near Deer Street in Lynden, Washington, and having a length of approximately 5.32

ITEM (106). Beginning at Discovery Junction, Washington, and extending in a general westerly direction to a point in the Northeast Quarter of Section 36, Township 31 North, Range 9 West, in Disque, Washington, and having a length of approximately 56.18

Total miles of main track in *Group B*..... 3,728.38

Group C: The undivided interest of the Railroad Company in each of the following lines of railroad:

ITEM (1). An undivided one-quarter interest in a line extending from a point in the north line of Lake Street, between Canal Street and the Chicago River, to a point in Canal Street, between Carroll Avenue and Fulton Street, all in the City of Chicago, Illinois, and having a length of approximately ..... .12

ITEM (2). An undivided one-half interest in a line extending from a connection with the line described in ITEM (1) of this *Group C* at a point in Canal Street, between Carroll Avenue and Fulton Street, to a connection with the line described in ITEM (1) of *Group A* at Western Avenue, all in the City of Chicago, Illinois, and having a length of approximately..... 2.42

ITEM (3). An undivided one-quarter interest in a line extending from a connection with the

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line described in ITEM (1) of this *Group C* at a point north of Fulton Street, between Canal Street and the Chicago River in the City of Chicago, Illinois, to a point in Canal Street near Carroll Avenue, in said Chicago, and having a length of approximately..... .06

ITEM (4). An undivided one-sixth interest in a line extending from a connection with the line described in ITEM (3) of this *Group C* at a point in Canal Street near Carroll Avenue in the City of Chicago, Illinois, to a connection with the line described in ITEM (2) of *Group A* near the south line of Kinzie Street in said Chicago, and having a length of approximately..... .07

ITEM (5). An undivided one-half interest in a line extending from a connection with the line described in ITEM (6) of *Group A* at "N" Street in Mendota, Minnesota, by way of Chestnut Street in the City of St. Paul, Minnesota, to Sibley Street in said St. Paul, and having a length of approximately 5.03

ITEM (6). An undivided one-half interest in a line extending from a connection with the line described in ITEM (72) of *Group B* at "D" Street in Mankato, Minnesota, to Maple Street in said Mankato, and having a length of approximately 1.10

ITEM (7). An undivided one-third interest in a line extending from a connection with the line described in ITEM (4) of *Group A* east of Pearl Street in Sioux City, Iowa, to a connection with the line described in said ITEM (4) west of said Pearl Street, and having a length of approximately ..... .05

ITEM (8). An undivided one-half interest in a line extending from a connection with the line described in ITEM (41) of *Group B* at a point near the east and west quarter section line of Section 17, Township 132 North, Range 76 West, near Linton, North Dakota, to a connection with

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the railway of the Northern Pacific Railway Company at Walnut Avenue in Linton, North Dakota, and having a length of approximately 1.10

ITEM (9). An undivided one-half interest in a line extending from a connection with the line described in ITEM (5) of *Group B* at a point in the Southeast Quarter of Section 11, Township 43 North, Range 1 East, to a connection with the line described in item (6) of granting clause SEVENTH at a point in the Northeast Quarter of Section 14, Township 43 North, Range 1 East, all at Camp Grant, Illinois, and having a length of approximately ..... .19

ITEM (10). An undivided one-half interest in a line extending from a connection with the line described in ITEM (9) of *Group B* at Forest Street, to a connection with the line described in said ITEM (9) at Merrill Street between Main Street and the east branch of the Fond du Lac River, all in Fond du Lac, Wisconsin, and having a length of approximately..... .27

ITEM (11). An undivided one-half interest in a line extending from a connection with the line described in ITEM (12) of *Group B* at a point about 250 feet southerly of the south end of Bridge D-180 across the Fox River, and extending northerly about 500 feet north of the north end of said bridge to a connection with the line described in said ITEM (12), all in Oshkosh, Wisconsin, and having a length of approximately... .27

ITEM (12). An undivided one-half interest in a line extending from a connection with the line described in ITEM (31) of *Group B* near Cedar Street in Red Wing, Minnesota, to a point near St. Clair Street in Cannon Falls, Minnesota, and having a length of approximately..... 21.60

ITEM (13). An undivided one-half interest in a line extending from a connection with the line

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described in ITEM (17) of *Group B* at a point in the Northeast Quarter of Section 1, Township 19 North, Range 19 East, in Hilbert, Wisconsin, through a connection with the line described in said ITEM (17) at a point about 650 feet east of DePere Street in Menasha, Wisconsin; also from a point near Milwaukee Street in said Menasha to a point about 200 feet south of North Water Street in Neenah, Wisconsin, the lines described in this ITEM (13) having a total length of approximately 15.80

ITEM (14). An undivided one-half interest in a line extending from a connection with the line described in item (22) of granting clause SEVENTH at a point about 1800 feet west of Cemetery Road in Oconto, Wisconsin, to a connection with the line described in ITEM (19) of *Group B* at a point about 500 feet west of said Cemetery Road, and having a length of approximately.... .24

ITEM (15). An undivided one-half interest in a line extending from a connection with the line described in ITEM (21) of *Group B* at Crystal Falls Junction, Michigan, to the north end of the bridge across Brier Hill Creek at said Crystal Falls Junction, and having a length of approximately ..... .25

ITEM (16). An undivided one-third interest in a line extending from a connection with the line described in ITEM (48) of *Group B* at a point just north of the north line of Tenth Avenue in Clinton, Iowa, to a point south of the south line of said Tenth Avenue, and having a length of approximately ..... .04

ITEM (17). An undivided one-half interest in a line extending in a general southwesterly direction from a connection with the line described in ITEM (21) of *Group A* at Birmingham, Missouri, to Air Line Junction in the City of Kansas City, Missouri, and having a length of approximately 4.39

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ITEM (18). An undivided one-half interest in a line extending from Air Line Junction in the City of Kansas City, Missouri, to Troost Avenue in said Kansas City; also an undivided one-half interest in seven one-hundredths (.07) of a mile of track at Santa Fe Street in said Kansas City, the lines described in this ITEM (18) having a total length of approximately. 4.48

ITEM (19). An undivided one-half interest in a line extending from a connection with the line described in ITEM (83) of *Group B* at a point about 1000 feet southerly of Main Street in Lewistown, Montana, to a connection with the line described in said ITEM (83) at Spring Creek Junction, Montana; also a line extending from a connection with the line described in said ITEM (83) at Emerson Junction, Montana, to a connection with the line described in said ITEM (83) at Dracut Junction, Montana; also a line extending from a connection with the line described in said ITEM (83) at Eastham, Montana, to a connection with the line described in said ITEM (83) at a point in the Southwest Quarter of Section 30, Township 24 North, Range 4 West, in Choteau, Montana, the lines described in this ITEM (19) having a total length of approximately..... 29.99

ITEM (20). An undivided one-half interest in a line extending from a connection with the line described in ITEM (25) of *Group A* at the west line of Center Street in the City of Spokane, Washington, to the east line of Monroe Street in said Spokane, and having a length of approximately ..... .56

ITEM (21). An undivided one-half interest in a line extending from a connection with the railway of the Pacific Coast Railroad Company at Black River Junction, Washington, to a connection with the line described in ITEM (27) of *Group A* near the east bank of the Puyallup River, at

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Tacoma Junction, Washington, and having a length of approximately..... 26.32

ITEM (22). An undivided one-half interest in a line extending from a connection with the line described in ITEM (99) of *Group B* at Selleck, Washington, to a connection with the line described in item (54) of granting clause SEVENTH at said Selleck; also a line extending from a connection with the line described in item (48) of granting clause SEVENTH at Kanaskat Junction, Washington, to a connection with the line described in said ITEM (99) of *Group B* at said Kanaskat Junction, said lines described in this ITEM (22) having a total length of approximately .45

ITEM (23). An undivided one-half interest in a line extending from a connection with the line described in ITEM (101) of *Group B* at Helsing Junction, Washington, to 22nd Street in Hoquiam, Washington, and having a length of approximately 44.50

ITEM (24). An undivided one-half interest in a line extending from a connection with the line described in ITEM (23) of this *Group C* at South Montesano, Washington, to a point about 1000 feet southwesterly of Main Street in Montesano, Washington, and having a length of approximately 1.60

ITEM (25). An undivided one-eighth interest in a line extending from a connection with the line described in item (45) of granting clause SEVENTH at Longview Junction, Washington, to a connection with the line described in ITEM (26) of this *Group C* at said Longview Junction, and having a length of approximately..... .02

ITEM (26). An undivided one-quarter interest in a line extending from a connection with the line described in ITEM (25) of this *Group C* at Longview Junction, Washington, to the freight house at Hudson Street in Longview, Washington, and having a length of approximately..... 3.53

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ITEM (27). An undivided one-half interest in a line extending in a general westerly direction from a connection with the line described in ITEM (17) of this *Group C* at Freight Line Junction in the City of Kansas City, Missouri, to West Wye in said Kansas City, and having a length of approximately ..... .35

Total miles of main track in *Group C* 164.80

Group D: **The leasehold interest of the Railroad Company in each of the following lines of railroad held under lease from Chicago, Terre Haute and Southeastern Railway Company, dated July 1, 1921:**

ITEM (1). Beginning at a point in the Northwest Quarter of Section 33, Township 35 North, Range 14 East, in Chicago Heights, Illinois, and extending in a general southerly and easterly direction, through Delmar, Webster and Quaker in the State of Illinois, and Belt Junction, Elnora, Bedford and Seymour in the State of Indiana, to a point near Sycamore Street in Westport, Indiana, and having a length of approximately 294.39

ITEM (2). Beginning at a connection with the line described in ITEM (1) of this *Group D* at Belt Junction, Indiana, and extending in a general northerly direction to a point near Hulman Street in the City of Terre Haute, Indiana, and having a length of approximately 2.71

ITEM (3). Beginning at a connection with the line described in ITEM (1) of this *Group D* in the Southwest Quarter of Section 9, Township 8 North, Range 7 East, in Latta, Indiana, and extending in a general southwesterly direction to a point near Washington Street in Sullivan, Indiana, and having a length of approximately.. 13.73

ITEM (4). Beginning at a connection with the line described in item (7) of granting clause

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SEVENTH at Blue Island, Illinois, and extending in a general southeasterly direction to a connection with the line of The Baltimore & Ohio Chicago Terminal Railroad Company at St. Paul Junction, Illinois, and having a length of approximately ..... .91

Total miles of main track in *Group D* 311.74

Group E: **The leasehold interest of the Railroad Company in the following line of railroad held under agreement dated September 3, 1883, as supplemented by agreement dated August 27, 1902, letter agreement dated October 30, 1919, and agreement dated August 1, 1936, with the Chicago, Burlington & Quincy Railroad Company and its predecessors in interest:**

ITEM (1). Beginning at a connection with the line described in ITEM (3) of *Group A* at a point approximately 100 feet east of the east line of 14th Street in Council Bluffs, Iowa, and extending in a general westerly direction to a connection with the line described in said ITEM (3) at a point approximately 20 feet west of the west line of 15th Street, in said Council Bluffs, and having a length of approximately..... .10

Group F: **Additional main tracks:**

All tracks owned by the Railroad Company or in which it has an interest and commonly designated as second main track, third main track, etc., and used as a part of or in connection with any of the said lines of railroad above described in *Groups A, B, C, D and E*, and having an aggregate length of approximately:

	Miles	
Wholly owned	892.34	
Jointly owned	15.11	
Held under lease.....	45.43	
Total		952.88

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Group G: **Yard tracks and sidings:**

All yard, side, industrial, switch, connecting, terminal, passing and shop tracks and turnouts owned by the Railroad Company or in which it has an interest and used or provided for use in connection with any of the lines of railroad and tracks above described in *Groups A, B, C, D, E and F*, and having an aggregate length of approximately:

	Miles	
Wholly owned	3,081.24	
Jointly owned	297.79	
Held under lease.....	193.75	
Total		3,572.78

SECOND. **All of the Railroad Company's right, title and interest in and to all tracts and parcels of land, easements, rights of way and other real property and interests in real property of whatever kind or description now owned or hereafter acquired by the Railroad Company.**

THIRD. **Any and all tracks, easements, rights of way, lands, fixtures, structures, improvements, tenements and hereditaments of whatever kind or description and wherever situated, now owned or hereafter acquired by the Railroad Company, including in the property comprised in the description of this granting clause any and all main, branch, cut-off, spur, industrial, switch, connecting, storage, yard or terminal tracks, rights of way, easements, estates, superstructures, roadbeds, bridges, trestles, culverts, viaducts, buildings, depots, stations, stock yards, warehouses, elevators, car houses, engine houses, freight houses, machine shops and other shops, turntables, fuel stations, water stations, signals, interlocking plants, telegraph and telephone lines, fences, docks, structures and fixtures, and all other property now owned or hereafter acquired by the Railroad Company.**

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FOURTH. **All right, title and interest of every name and nature, legal or equitable, of the Railroad Company in and to all mechanical equipment, machinery, tools, implements, furniture, supplies, materials, and other chattels now owned by or at any time hereafter acquired by the Railroad Company.**

FIFTH. **All estate, right, title and interest of every kind and nature, legal or equitable, of the Railroad Company in and to Equipment (as defined in Article I) now owned by or at any time hereafter acquired by the Railroad Company, and any and all additions, betterments and improvements thereto, including all right, title and interest now or hereafter vested in the Railroad Company in and to any and all such property leased to or possessed by the Railroad Company under any Equipment Obligation.**

SIXTH. **The following described securities of other corporations:**

Group A: **The following shares of common capital stock of other corporations now owned by the Railroad Company and delivered to the Trustee upon the execution and delivery of the Mortgage:**

Name of Company	Number of Shares	Total Par Value
Chicago Union Station Company..	7,000	$ 700,000
Chicago, Milwaukee and Gary Railway Company	9,993	999,300
Chicago, Terre Haute and Southeastern Railway Company.....	40,465.95	4,046,595
Cowlitz, Chehalis and Cascade Railway	697	69,700
Davenport, Rock Island and Northwestern Railway Company.....	14,997	1,499,700

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Name of Company	Number of Shares	Total Par Value
Des Moines Union Railway Company	996	99,600
Indiana Harbor Belt Railroad Company	15,198	1,519,800
Milwaukee Land Company.....	4,995	499,500
Minneapolis Eastern Railway Company	620	62,000
The Minnesota Transfer Railway Company	913	91,300
Republic Coal Company.....	997	99,700
Excelsior Coal Company.....	245	24,500
The Saint Paul Union Depot Company	1,036	103,600
The Milwaukee Motor Transportation Company	495	49,500

Group B: **The following evidences of indebtedness of other corporations now owned by the Railroad Company and delivered to the Trustee upon the execution and delivery of the Mortgage:**

Description	Principal Amount
Chicago, Terre Haute and Southeastern Railway Company First and Refunding Mortgage Fifty Year Five Per Cent Gold Bonds.....	$1,515,000.00
Minneapolis Eastern Railway Company Refunding Mortgage 4½% Bonds....	49,000.00
Chicago, Terre Haute and Southeastern Railway Company 5% Notes.....	640,392.30
Kansas City Terminal Railway Company 6% Notes	57,693.96
Milwaukee Land Company 6% Note....	2,652,000.00

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Group C: **The shares of common capital stock of other corporations now owned by the Railroad Company but deposited under and subject to the following agreements:**

1,000 shares, of the par value of $100 each, of Des Moines Union Railway Company, deposited with Iowa-Des Moines National Bank and Trust Company under Stock Trust Agreement dated April 2, 1930;

1,828½ shares, of the par value of $100 each, of Kansas City Terminal Railway Company, deposited with The First National Bank of Kansas City, Missouri, under Stock Trust Agreement dated June 12, 1909.

SEVENTH. **All of the Railroad Company's estate, right, title, interest, terms and remainders of terms, franchises, privileges and rights of action of whatsoever name and nature in law or in equity in and to (but not limited to) the following principal trackage, terminal or operating contracts or agreements or leases, and all amendments, supplements, extensions and renewals thereof, aggregating approximately:**

Miles of first main track	895.70
Additional main tracks	283.10
Yard tracks and sidings	603.71
Total	1,782.51

(1) With Chicago Union Station Company, dated July 2, 1915, for a term expiring July 3, 1963, covering the use of passenger station and transfer facilities at Chicago, Illinois.

(2) With Chicago and North Western Railway Company, dated September 28, 1932, for an indefinite period, covering trackage rights between Techny and Bensenville, Illinois.

(3) With Davenport, Rock Island and Northwestern Railway Company, dated February 27, 1901, for a term

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of 999 years, covering trackage rights from Clinton, Iowa, via Davenport, Iowa, to East Moline, Illinois.

(4) With The Chicago, Rock Island & Pacific Railway Company and Chicago, Burlington & Quincy Railroad Company, dated August 21, 1917, for an indefinite period, covering trackage rights between Clinton and Chancy, Iowa.

(5) With Chicago, Burlington & Quincy Railroad Company, dated March 23, 1903, for a term of 99 years, covering trackage rights between Steward Junction and Davis Junction, Illinois.

(6) With Chicago, Burlington & Quincy Railroad Company, dated August 31, 1928, for a term of 25 years, covering trackage rights between Davis Junction and Rockford, Illinois.

(7) With Indiana Harbor Belt Railroad Company, dated July 1, 1921, for a term ending October 4, 1995, covering trackage rights between Franklin Park and Blue Island, Illinois.

(8) With Indiana Harbor Belt Railroad Company, dated December 4, 1913, for an indefinite period, covering trackage rights between Franklin Park, Illinois, and a connection with the line of Chicago River & Indiana Railroad near Western Avenue, Chicago, Illinois.

(9) With Chicago River & Indiana Railroad Company covering trackage rights in the City of Chicago, Illinois, between a point of connection with Indiana Harbor Belt Railroad Company, near Oakley Avenue, and Ashland Avenue (Union Stock Yards), in said Chicago.

(10) With Union Pacific Railroad Company, dated May 27, 1898, for a term of 999 years and September 1, 1898, for a term of 50 years, covering trackage rights between Council Bluffs, Iowa, and Omaha, Nebraska, including a bridge across the Missouri River and the use of the passenger station in said Omaha.

(11) With The Chicago, Rock Island & Pacific Railway Company, dated August 1, 1901, for a term of 99 years, covering trackage rights between Davenport and Muscatine, Iowa.

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(12) With The Chicago, Rock Island & Pacific Railway Company, dated August 1, 1931, for a term ending December 31, 2030, covering trackage rights between Polo and Birmingham, Missouri.

(13) With Chicago, Burlington & Quincy Railroad Company, dated October 17, 1933, for an indefinite period, covering trackage rights between Ayres and Ebner, Illinois.

(14) With Illinois Central Railroad Company, dated March 23, 1903, for an indefinite period, covering trackage rights between Burlington Street and Fifth Street in Mendota, Illinois.

(15) With The New York Central Railroad Company, dated February 9, 1903, for a term of 99 years, covering trackage rights between Seatonville and McNabb, Illinois.

(16) With The New York Central Railroad Company, dated February 9, 1903, for a term of 99 years, covering trackage rights between DePue Junction and DePue, Illinois.

(17) With The New York Central Railroad Company, dated February 9, 1903, for a term of 99 years, covering trackage rights within the City of Ladd, Illinois.

(18) With Des Moines Union Railway Company, dated January 1, 1924, for a term of 25 years, covering the use of passenger station and terminal facilities at Des Moines, Iowa.

(19) With Illinois Central Railroad Company, dated March 18, 1892, for an indefinite period, covering trackage rights within the City of Dubuque, Iowa.

(20) With Kansas City Terminal Railway Company, dated June 12, 1909, for a term of 200 years, covering the use of passenger station and terminal facilities at Kansas City, Missouri, and Kansas City, Kansas.

(21) With Escanaba and Lake Superior Railroad Company, dated January 1, 1921, for a term ending January 1, 1951, covering trackage rights between Channing Junction and Wells, Michigan.

(22) With Chicago and North Western Railway Company, dated July 6, 1933, for an indefinite period, cov-

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ering trackage rights between Stiles Junction and Oconto, Wisconsin.

(23) With Elgin, Joliet and Eastern Railway Company, dated September 3, 1930, for a term of ten years and thereafter until cancelled on six months' notice, covering trackage rights between Aurora and Joliet, Illinois.

(24) With Chicago and North Western Railway Company, dated April 11, 1935, for a term of 99 years covering trackage rights between Crystal Falls, Iron River, Iron Mountain and Escanaba, Michigan.

(25) With Wisconsin Central Railway Company and Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, dated April 15, 1919, for a term of 99 years, covering trackage rights between Eau Claire and Chippewa Falls, Wisconsin.

(26) With Northern Pacific Railway Company, dated October 1, 1900, for a term ending October 15, 1999, covering trackage rights between St. Paul and Duluth, Minnesota.

(27) With Northern Pacific Railway Company, dated October 1, 1900, for a term ending October 15, 1999, covering trackage rights between Carlton and Cloquet, Minnesota.

(28) With Northern Pacific Railway Company, dated October 1, 1900, for a term ending October 15, 1999, covering trackage rights between Carlton, Minnesota, and West Superior, Wisconsin.

(29) With Chicago Great Western Railway Company, dated December 1, 1902, for an indefinite period, covering trackage rights between Benning and Mankato, Minnesota.

(30) With Chicago, Burlington & Quincy Railroad Company, dated May 28, 1902, for an indefinite period, covering trackage rights between St. Croix Junction and St. Paul, Minnesota.

(31) With Chicago, St. Paul, Minneapolis and Omaha Railway Company, dated May 4, 1904, for a term of 99

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years, covering trackage rights between Bayport and Stillwater, Minnesota.

(32) With The Saint Paul Union Depot Company, dated December 18, 1916, for a term of 99 years, covering the use of passenger station and terminal facilities at St. Paul, Minnesota.

(33) With Union Pacific Railroad Company, dated June 10, 1913, for a term of 999 years, covering trackage rights between Manito and Dishman, Washington.

(34) With Union Pacific Railroad Company, dated September 21, 1913, for a term of 999 years, covering trackage rights between Dishman and Spokane, Washington.

(35) With Union Pacific Railroad Company, dated April 15, 1912, for a term of 999 years, covering trackage rights between Spokane and Marengo, Washington.

(36) With Pacific Coast Railroad Company, dated May 21, 1906, for a term of 99 years, covering trackage rights between Maple Valley and Seattle, Washington.

(37) With Northern Pacific Railway Company, dated July 31, 1911, for a term of 999 years, covering trackage rights between Aberdeen and Hoquiam, Washington.

(38) With Washington, Idaho & Montana Railway Company, dated December 10, 1917, for an indefinite period, covering trackage rights between Purdue and Bovill, Idaho.

(39) With White River Lumber Company, dated June 7, 1933, for an indefinite period, covering terminal trackage rights at Enumclaw, Washington.

(40) With Union Pacific Railroad Company, dated October 4, 1923, for a term ending June 30, 2006, covering trackage rights between Argo, Washington and the passenger depot, including joint use of said passenger depot, in the City of Seattle, Washington.

(41) With Port Townsend Southern Railroad Company, dated April 22, 1915, for an indefinite period, covering trackage between Discovery Junction and Port Townsend, Washington.

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(42) With Great Northern Railway Company, dated November 2, 1936 and November 17, 1938, in perpetuity, covering trackage rights between Monroe and Lowell, Washington.

(43) With Northern Pacific Railway Company, dated May 29, 1937, in perpetuity, covering trackage rights between Lowell and Everett, Washington.

(44) With Northern Pacific Railway Company, dated November 1, 1931, for a term of 999 years, covering trackage rights between Chehalis and Olequa, Washington.

(45) With Northern Pacific Railway Company, dated January 17, 1934, for a term of 999 years, covering trackage rights between Olequa and Longview Junction, Washington.

(46) With Northern Pacific Railway Company, dated January 20, 1934, for an indefinite period, covering trackage rights between Chehalis and Dryad, Washington.

(47) With Chehalis Western Railroad Company, dated May 7, 1936, for a term of 50 years, covering trackage rights between Skookumchuck and Vail, Washington.

(48) With Northern Pacific Railway Company, dated January 5, 1933, for an indefinite period, covering trackage rights between Bagley Junction and Enumclaw, Washington.

(49) With St. Louis—San Francisco Railway Company, dated June 20, 1921, for an indefinite period, covering trackage rights between connection with the Kansas City Terminal Railway Company and connection with Missouri—Kansas—Texas Railway Company at Kansas City, Missouri.

(50) With Great Northern Railway Company, dated May 8, 1941, in perpetuity, covering trackage rights in Great Falls, Montana.

(51) With The Pennsylvania Railroad Company, dated April 15, 1872, for an indefinite period, covering trackage rights between Western Avenue and connection with the Chicago Junction Railway, all within the City of Chicago, Illinois.

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(52) With Rapid City, Black Hills & Western Railroad Company, dated December 20, 1905, for an indefinite period, covering trackage rights in Rapid City, South Dakota.

(53) With Chicago and North Western Railway Company, dated November 14, 1944, for an indefinite period, covering trackage rights at Camp McCoy, Wisconsin.

(54) With Cascade Timber Company, dated March 10, 1934, for an indefinite period, covering trackage rights at Selleck, Washington.

(55) With Union Pacific Railroad Company, dated July 31, 1911, for a period of 999 years, covering trackage rights at Aberdeen, Washington.

(56) With Chicago, Burlington & Quincy Railroad Company, dated August 31, 1928, for a period of 25 years, covering trackage rights at Davis Junction, Illinois.

(57) With Great Northern Railway Company, dated May 1, 1916, for a term of 99 years, covering trackage rights at Coeur d'Alene, Idaho.

(58) With The Chicago, Rock Island & Pacific Railway Company, dated October 1, 1926, in perpetuity, covering trackage rights between Maple Island and Hollandale, Minnesota.

(59) With Northern Pacific Railway Company, dated November 24, 1890, for a term of 99 years, covering trackage rights at Stillwater, Minnesota.

(60) With Chicago and North Western Railway Company, dated October 5, 1931, for a term of 15 years and thereafter until cancelled by formal notice, covering trackage rights between Crystal Falls Junction and Crystal Falls, Michigan.

(61) With The Kansas City Southern Railway Company, dated May 1, 1942, for a term of 99 years, covering trackage rights in Kansas City, Missouri, and Kansas City, Kansas.

(62) With Great Northern Railway Company, dated January 25, 1945, in perpetuity, covering trackage rights between Spokane Bridge, Washington, and Coeur d'Alene, Idaho.

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EIGHTH. All of the Railroad Company's estate, right, title, interest, terms and remainders of terms, franchises, privileges and rights of action of whatsoever name and nature in law or in equity in and to any and all other leases, leasehold rights, joint facilities and other trackage contracts, rights and privileges and amendments and renewals and extensions thereof, not specifically described in granting clause SEVENTH, now owned or hereafter acquired by the Railroad Company in connection with or relating to the ownership, use or operation by the Railroad Company of any of its lines of railroad, or any terminals or union or other stations, situated along, or at the terminus of, any of the Railroad Company's lines of railroad.

NINTH. Any and all right, title and interest of every name and nature of the Railroad Company in and to any and all telegraph, telephone or other communication facilities now owned by or hereafter acquired by the Railroad Company; and the rights and agreements covering the rights to the use of any and all telegraph, telephone or other communication facilities along the Railroad Company's lines of railroad, as they may be used from time to time or subject to use by the Railroad Company.

TENTH. Any and all corporate rights, powers, franchises, privileges and immunities now or hereafter owned or possessed by the Railroad Company.

ELEVENTH. All property of every kind and description which may hereafter be acquired by the Railroad Company and which (a) shall be acquired in replacement of or substitution for any property now owned by the Railroad Company and subject to the lien of the Mortgage or which may at any time become subject to the lien of the Mortgage, or (b) shall be appurtenant to or acquired for use upon or in connection with any of the Railroad Company's lines of railroad or for use upon or in connection with any other property, real or personal, which may at the time be subject

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to the lien of the Mortgage, or (c) shall be acquired in whole or in part by the use of Bonds issued under the Mortgage or General Mortgage Bonds issued under the General Mortgage, or moneys deposited with the Trustee under any provision of the Mortgage or with the trustee of the General Mortgage under any provision thereof, or (d) by any provision of the Mortgage the Railroad Company is required to convey, mortgage, pledge, assign or transfer to the Trustee hereunder; provided, however, that if the Railroad Company shall acquire substantially all of the properties of any Class I Carrier (as defined in Article I), such properties shall be subject to the lien of the Mortgage only to the extent and under the conditions provided in Article XII.

TWELFTH. All property of every kind and description, in addition to that above described, which, at any time hereafter, by indenture or indentures supplemental hereto, or other instruments of transfer, may be expressly conveyed, mortgaged or pledged, delivered, assigned or transferred to the Trustee hereunder by the Railroad Company or by a successor corporation, or with its consent by anyone in its behalf, as and for additional security or substitute security for the Bonds issued and to be issued hereunder, the Trustee being hereby authorized at any time and at all times to receive such conveyance, mortgage, pledge, delivery, assignment or transfer and to hold and apply any and all such properties subject to the trusts of the Mortgage; provided that any such conveyance, mortgage, pledge, delivery, assignment or transfer made pursuant to the provisions of this granting clause TWELFTH, as and for additional security or substituted security, may be made subject to any liens, reservations, limitations, conditions and provisions, consistent with the provisions of the Mortgage, which shall be specified or set forth in such supplemental indenture or instrument of transfer.

THIRTEENTH. All other property of every kind and description, real, personal or mixed, acquired by the Railroad Com-

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pany from Henry A. Scandrett, Walter J. Cummings and George I. Haight, as trustees of the Debtor's property, or in which the Railroad Company now has any right, title or interest.

FOURTEENTH. All property which may now or at any time hereafter be subject to the lien of the Railroad Company's General Mortgage, it being the intention that the Mortgage shall constitute a lien prior to the lien of the General Mortgage on all property which may at any time be subject to the lien of said General Mortgage, except moneys held in trust by the trustee under any of the provisions of the General Mortgage.

FIFTEENTH. All rents, issues, tolls, profits and other income from the premises and property herein or hereafter mortgaged, and conveyed or assigned, or intended so to be.

SIXTEENTH. All Securities (as defined in Article I), now owned or hereafter acquired by the Railroad Company.

SEVENTEENTH. All property which from time to time hereafter shall be constructed or acquired by the Railroad Company, whether or not such property is particularly described in the Mortgage or required to be specifically subjected to the lien of the Mortgage pursuant to any provisions hereof.

For the purposes of the foregoing granting clauses FIRST to SEVENTEENTH, inclusive:

(1) The word "property" shall be deemed to include property of every kind and description, whether real, personal, or mixed, whether tangible or intangible, and whether of present or future interests, including without limitation, franchises, leaseholds, stocks, bonds and other securities;

(2) The "Railroad Company's lines of railroad" shall be deemed to include any main or branch or cut-off lines of railroad, and any and all main, branch, second, spur, side, industrial, switch, connecting, storage, yard, terminal, passing and shop tracks and turnouts, which the Railroad Company may own, either solely or jointly, or

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over which the Railroad Company may operate or have any right to operate under any lease or trackage agreement;

(3) Out of the grants hereby made, the last day of the term of each leasehold estate (whether created orally or by written instrument) now or hereafter enjoyed by the Railroad Company is hereby excepted and reserved, whether falling within the general or particular description of property herein described;

(4) It is not intended to subject to the lien hereof, and this grant shall not be deemed to apply to, any Equipment, or equity in Equipment, which may now or at any time hereafter be lodged under the lien of any of the Modified Terre Haute Mortgages (as defined in Article I) in accordance with the terms and provisions thereof and acquired or constructed for that purpose;

(5) It is not intended to subject to the lien hereof, and this grant shall not be deemed to apply to

(a) any rents, issues, tolls, profits or other income of the premises and property herein or hereafter mortgaged and conveyed or assigned, or

(b) any cash, government securities, federal, state or local, or bills, notes or accounts receivable (except cash, government securities or bills, notes or accounts receivable deposited or required to be deposited with the Trustee pursuant to any of the provisions of the Mortgage),

(c) any materials or supplies, or

(d) any Special Securities, as defined in Article I,

unless and until one or more of the Events of Default enumerated in Section 2 of Article XVI hereof shall have occurred; but, upon the occurrence of any such Event of Default, all such rents, issues, tolls, profits and other income, cash, government securities, bills, notes and accounts receivable, materials and supplies and Special Securities shall immediately become subject to the lien hereof to the extent permitted by law;

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(6) The provisions of the Mortgage, including those in the foregoing granting clauses FIRST to SEVENTEENTH, inclusive, shall be construed, and the lien of the Mortgage at any time shall be determined, in conformity with the following grants, restrictions, and rules of construction, which shall prevail over any other provision of the Mortgage in the event of any inconsistency therewith:

(a) Subject to the limitations of Article XII, the provisions of the Mortgage which may reasonably be construed to subject to the lien of the Mortgage property which may be acquired hereafter by the Railroad Company, or in which the Railroad Company hereafter may acquire an interest, shall be construed as applying to such property, and a liberal scope and effect shall be given to such provisions.

(b) Nothing in the Mortgage, express or implied, is intended or shall be construed to limit the right or power of the Railroad Company, which is hereby expressly reserved, to acquire any property or interest therein subject to the liens or charges existing thereon at the time of the acquisition thereof, or to create thereon any purchase money mortgage.

(c) Nothing in the Mortgage, express or implied, is intended or shall be construed to limit the right of the Railroad Company, which is hereby expressly reserved, to consolidate with or merge into, or to convey or lease the mortgaged property as a whole, or substantially as a whole, to another corporation or corporations, or to merge another corporation or corporations into the Railroad Company, or to acquire the property, as a whole or substantially as a whole, of another corporation or corporations, all as provided and with the exceptions and upon the terms and conditions set forth in Article XII hereof.

(d) Nothing in the Mortgage, express or implied, is intended or shall be construed to limit the right or power of the Railroad Company, which is hereby expressly reserved, to subject Equipment constructed or acquired for its use, at any time within

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two years from the date the same is so constructed or acquired, to any Equipment Obligation which the Railroad Company may desire to create or undertake for the purpose of funding the cost of such construction or acquisition, provided the principal amount of such Equipment Obligation does not exceed an amount which, when added to the amount of expenditures from the Additions and Betterments Fund and the Reserve and Retirement Fund for or on account of the acquisition or construction of such Equipment, would exceed the Gross Expenditures for such Equipment, and that such Equipment has not therefore been made the basis for the authentication and delivery of any Bonds or General Mortgage Bonds or the withdrawal of cash held by the Trustee of the Mortgage under any provision thereof or by the trustee of the General Mortgage under any provision thereof. The right, charge, lien or title of any such Equipment Obligation with respect to Equipment subjected thereto as aforesaid shall in all respects be free from and prior to the lien of the Mortgage; and the lien of the Mortgage shall reattach to the right, title and interest of the Railroad Company then or thereafter existing with respect to such Equipment, as provided in granting clause FIFTH.

(e) Nothing in the Mortgage, express or implied, is intended or shall be construed to limit the right or power of the Railroad Company, which is hereby expressly reserved, to use and apply any of its materials and supplies in the routine maintenance and repair of railroad equipment, whether owned by the Railroad Company or by any other railroad, after one or more Events of Default enumerated in Section 2 of Article XVI hereof shall have occurred and be continuing.

(f) Nothing in the Mortgage is intended or shall be construed to require the deposit with the Trustee of any securities, or of any instruments of the character referred to in granting clauses SEVENTH,

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EIGHTH, and NINTH, except such securities and instruments as are by the terms of the Mortgage specifically required to be so deposited.

TO HAVE AND TO HOLD the premises, railroads, railroad property, appurtenances, rights, privileges, franchises, estates, leaseholds, securities and other property, real, personal and mixed, hereby granted, bargained, sold, conveyed, released, confirmed, mortgaged, pledged, assigned, transferred or set over, or intended so to be, or which may in any manner become subject to the lien of the Mortgage by indentures supplemental hereto or otherwise (all of which property at any given time subject to the lien of the Mortgage, whether by the terms of the Mortgage, including the after-acquired property clauses thereof, or by subsequent conveyance, delivery or pledge to the Trustee, or otherwise, is herein sometimes referred to as the "mortgaged property");

SUBJECT, HOWEVER, to the following:

(1) The prior rights, charges, lien and title under the following Equipment Obligations assumed by the Railroad Company in accordance with the Plan and the orders of the Court covering the following described Equipment:

(a) The Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series M, formed April 24, 1934, and modifications thereof, covering the following equipment:

21 baggage-express cars, numbered 1100 to 1122, both inclusive (except 1111 and 1118);

2 lounge-diner cars, numbered 5251 and 5252;

45 passenger coaches, numbered 4401 to 4448, both inclusive (except 4422, 4431 and 4441);

4 parlor cars, named Ishkoodah, Minnewawa, Nokomis and Wenonah;

13 box cars, numbered 19049 to 19061, both inclusive; and

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2 trouble shooter motor cars, numbered X670 and X671.

(b) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series O, formed March 1, 1936, and modifications thereof, covering the following equipment:

17 passenger coaches, numbered 400 to 416, both inclusive;

2 lounge-diner cars, numbered 151 and 152;

6 parlor cars, named Opechee, Sahwa, Iagoo, Omeme, Shada and Wawa;

2 dining cars, numbered 100 and 101;

4 mail-express cars, numbered 1200 to 1204, both inclusive (except 1201);

5 baggage cars, numbered 1300 to 1304, both inclusive;

1 steam locomotive, numbered 3;

499 hopper coal cars, numbered 94000 to 94499, both inclusive (except 94188);

490 automobile cars, numbered 13000 to 13499, both inclusive (except 13020, 13057, 13104, 13122, 13187, 13212, 13247, 13265, 13431 and 13472);

2 automobile cars, numbered 15001 and 15002;

489 automobile cars, numbered 6000 to 6499, both inclusive (except 6011, 6027, 6030, 6060, 6096, 6170, 6227, 6266, 6291, 6307 and 6464);

2 automobile cars, numbered 8001 to 8002;

9 box cars, numbered 19062 to 19070, both inclusive; and

4 air dump cars, numbered X905300 to X905303, both inclusive.

(c) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series P, formed January 1, 1937, covering the following equipment:

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30 steam freight locomotives, numbered 201 to 230, both inclusive; and

1 steam passenger locomotive, numbered 4.

(d) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series Q, formed March 1, 1937, and modifications thereof, covering the following equipment:

19 passenger coaches, numbered 417 to 436, both inclusive (except 420);

7 dining cars, numbered 102 to 108, both inclusive;

1 mail-express car, numbered 1205;

4 coach and baggage cars, numbered 201 to 205, both inclusive (except 203);

496 hopper coal cars, numbered 94500 to 94999, both inclusive (except 94657, 94739, 94833 and 94888);

495 automobile cars, numbered 13500 to 13999, both inclusive (except 13728, 13759, 13876, 13897 and 13901);

35 gondola cars, numbered 81000 to 81034, both inclusive;

11 box cars, numbered 19071 to 19082, both inclusive (except 19080);

1 steam wrecking derrick, numbered X17; and

2 air dump cars, numbered X905304 and X905305.

(e) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series R, formed August 1, 1937, and modifications thereof, covering the following equipment:

996 gondola cars, numbered 80000 to 80999, both inclusive (except 80054, 80081, 80342 and 80995);

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2 steam passenger locomotives, numbered 100 and 101;

5 flat cars, numbered 65964 to 65968, both inclusive; and

1 air dump car, numbered X905306.

(f) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series S, formed April 1, 1938, and modification thereof, covering the following equipment:

4 steam passenger locomotives, numbered 102 to 105, both inclusive;

3 tap room-baggage cars, numbered 154, 155 and 156;

1 express car, numbered 1308;

4 dining cars, numbered 109 to 112, both inclusive;

10 parlor cars, named Mitchell, Merrill, Miller, Earling, Hiland, Manchester, Whittemore, Chandler, Hanson and Sewall;

17 coaches, numbered 437 to 453, both inclusive;

2 railway post office cars, numbered 2150 and 2151;

1 mail and express car, numbered 1206;

3 baggage cars, numbered 1305, 1306 and 1307;

10 branch line coach-baggage-mail cars, numbered 2750 to 2759, both inclusive;

10 branch line coach-baggage cars, numbered 2708 to 2717, both inclusive; and

463 flat cars, numbered 65500 to 65963, both inclusive (except 65507).

(g) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series T, formed April 1, 1939,

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and modifications thereof, covering the following equipment:

994 box cars, numbered 18000 to 18999, both inclusive (except 18170, 18479, 18524, 18594, 18613 and 18648);

72 cabooses, numbered 01800 to 01874, both inclusive (except 01817, 01844 and 01861);

104 box cars, numbered 19083 to 19187, both inclusive (except 19151); and

3 air dump cars, numbered X905307, X905308 and X905309.

(h) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series U, formed December 1, 1939, and modification thereof, covering the following equipment:

10 steam freight locomotives, numbered 231 to 240, both inclusive;

1985 box cars, numbered 19188 to 21187, both inclusive (except 19202, 19282, 19345, 19543, 19994, 20011, 20045, 20205, 20325, 20343, 20382, 20603, 20738, 21009 and 21141); and

3 air dump cars, numbered X905299, X905310 and X905311.

(i) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series V, formed April 1, 1941, and modifications thereof, covering the following equipment:

1 diesel-electric freight locomotive, numbered 40;

2 diesel-electric passenger locomotives, numbered 14 and 15;

2 diesel-electric switching locomotives, numbered 1682 and 1683;

1 diesel-electric switch and light road service locomotive, numbered 1634;

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10 diesel-electric switch and light road service locomotives, numbered 1700 to 1709, both inclusive;

2 tap room cars, numbered 160 and 161;

8 coaches, numbered 454 to 461, both inclusive;

6 coaches, numbered 473 to 478, both inclusive;

2 coach-baggage cars, numbered 206 and 207;

2 dining cars, numbered 113 and 114;

2 steam heat cars, numbered 70 and 71;

18 box express cars, numbered 925, 926, 927, 928, 929, 932, 933, 935, 936, 937, and 940 to 947, both inclusive;

479 box cars, numbered 50000 to 50499, both inclusive (except 50441, 50475 to 50481, both inclusive, 50484, 50485, 50487, 50488, 50489, and 50492 to 50499, both inclusive);

24 cabooses, numbered 01900 to 01924, both inclusive (except 01917); and

3 air dump cars, numbered X905312, X905313 and X905314.

(j) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series W, formed November 1, 1941, and modifications thereof, covering the following equipment:

9 diesel-electric switching locomotives, numbered 1650, 1651, 1653, 1654, and 1670 to 1674, both inclusive;

1 diesel-electric switching locomotive, numbered 1649;

19 diesel-electric switching locomotives, numbered 1600, 1601, 1602, 1603, and 1610 to 1624, both inclusive;

1 diesel-electric switching locomotive, numbered 1699;

98 automobile cars, numbered 6500 to 6599, both inclusive (except 6543 and 6556);

499 hopper coal cars, numbered 95000 to 95499, both inclusive (except 95220);

735 gondola cars, numbered 82000 to 82734, both inclusive;

400 flat cars, numbered 64000 to 64399, both inclusive; and

1 air dump car, numbered X905315.

(k) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series X, formed March 1, 1944, and modification thereof, covering the following equipment:

10 steam freight locomotives, numbered 260 to 269, both inclusive;

6 diesel-electric freight locomotives, numbered 42 to 47, both inclusive;

1 wrecking derrick, numbered X18;

1000 box cars, numbered 21188 to 22187, both inclusive;

499 box cars, numbered 50500 to 50999, both inclusive (except 50548);

35 gondola cars, numbered 93500 to 93534, both inclusive;

35 covered hopper cars, numbered 99035 to 99069, both inclusive; and

25 cabooses, numbered 01925 to 01949, both inclusive.

(l) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series Y, formed April 1, 1945,

and modification thereof, covering the following equipment:

1000 box cars, numbered 22188 to 23187, both inclusive; and

15 cabooses, numbered 02000 to 02014, both inclusive.

(m) Lease agreement, dated April 27, 1940, between General American Transportation Corporation and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, covering the following equipment:

35 covered hopper cars, initialed GACX and numbered 40900 to 40934, both inclusive.

(n) Conditional sale agreement, dated as of September 1, 1940, between The Baldwin Locomotive Works and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Continental Illinois National Bank and Trust Company of Chicago, covering the following equipment:

2 diesel-electric switching locomotives, numbered 1680 and 1681.

(o) Conditional sale agreement, dated as of September 1, 1940, between Electro-Motive Corporation and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to The New York Trust Company, and modification thereof, covering the following equipment:

9 diesel-electric switching locomotives, numbered 1625 to 1633, both inclusive; and

1 diesel-electric switching locomotive, numbered 1652.

(p) Conditional sale agreement, dated as of June 1, 1945, between General Motors Corporation (Elec-

tro-Motive Division) and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

5 diesel-electric freight locomotives, numbered 35 to 39, both inclusive; and

5 diesel-electric passenger locomotives, numbered 16 to 20, both inclusive.

(q) Conditional sale agreement, dated as of June 25, 1945, between Fairbanks, Morse & Company and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

10 diesel-electric switching locomotives, numbered 1803 to 1812, both inclusive.

(r) Conditional sale agreement dated as of July 25, 1945, between The Baldwin Locomotive Works and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

4 diesel-electric switching locomotives, numbered 1688 to 1691, both inclusive.

(s) Conditional sale agreement, dated as of August 10, 1945, between American Locomotive Company and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

6 diesel-electric switching locomotives, numbered 1657 to 1662, both inclusive.

(t) Conditional sale agreement, dated as of September 5, 1945, between Paul B. Robb and Edward J. Friedrich, Owners, and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as

Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

500 flat cars, numbered 65969 to 66468, both inclusive; and

25 cabooses, numbered 01950 to 01974, both inclusive,

under which Equipment Obligations the unpaid balance of outstanding obligations as of the close of business on October 31, 1945, aggregated $23,250,837.92 in principal amount;

(2) All and singular the other matters hereinabove set forth in the granting clauses hereof and to Permitted Encumbrances as defined in Article I but only to the extent that the same shall constitute a prior lien or charge of record against any part of the mortgaged property;

BUT IN TRUST, NEVERTHELESS, upon the terms and conditions of the Mortgage, for the equal and proportionate benefit and security, except as provided in Section 1 of Article XVI, of all present and future holders of Bonds and coupons, according to their tenor, purport and effect, without preference, priority or distinction (except as provided in Section 1 of Article XVI) as to lien or otherwise; so that (except as aforesaid) each and every Bond and coupon shall have the same right, lien and privilege under the Mortgage and shall be equally and ratably secured thereby in accordance with the provisions of the Mortgage;

AND IT IS HEREBY COVENANTED AND DECLARED that all of the Bonds and coupons for interest thereon, if any, are to be issued, authenticated and delivered, and that the mortgaged property is to be held and disposed of by the Trustee, upon and subject to the following covenants, conditions, uses and trusts:

ARTICLE I

DEFINITIONS

The terms defined in this Article I (unless otherwise expressly provided or unless the context otherwise requires) shall have the respective meanings specified in this Article I for all purposes of the Mortgage.

(1) "Additions and Betterments" shall mean all physical property, or any undivided interest therein, of the Railroad Company becoming subject to the lien of the Mortgage, or located on any leasehold that is subject to the lien of the Mortgage (except the lease of the property of Chicago, Terre Haute and Southeastern Railway Company), acquired or constructed by the Railroad Company, or by the trustees of the Debtor's property in the reorganization proceedings above mentioned, after December 31, 1943, the cost or investment in which, at the time of acquisition or construction, was properly chargeable to Capital Accounts.

(2) "Additions and Betterments Fund" shall mean the fund created and maintained by the Railroad Company in accordance with the provisions of Article VI.

(3) "Application" shall mean a letter or other instrument in writing dated and signed, not more than 30 days prior to its delivery to the Trustee, by the President or a Vice President of the Railroad Company and by either (a) the Secretary or an Assistant Secretary of the Railroad Company, or (b) the Chief Accounting Officer of the Railroad Company, setting forth briefly the nature of the matter or action covered by the application, referring to the particular provision or provisions of the Mortgage upon which the application is based,

and enumerating the resolutions, certificates, opinions, securities, cash, instruments of transfer and other papers and documents or property delivered or to be delivered to the Trustee with or in connection with such application.

(4) "Available Net Income" for any calendar year shall mean the consolidated income of the Railroad Company and its Railroad Subsidiaries for such year available for fixed charges, after deducting therefrom all fixed charges accrued during such year and all other charges properly deductible therefrom in determining consolidated income after fixed charges for such year exclusive of Contingent Interest (whether or not payable in the form of rent for leased properties) for such year and amounts required to be deposited in the Additions and Betterments Fund and in sinking funds for the retirement of Bonds and General Mortgage Bonds out of Available Net Income for such year, subject to the following:

(a) Consolidated income available for fixed charges and the deductions required to be made therefrom shall be determined in accordance with the Uniform System of Accounts applicable to such year, except that there shall be added thereto such amounts as shall have been charged to operating expenses during such year representing the service value (i.e. the ledger value less the value of salvage, if any) of any non-depreciable roadway property retired and not replaced.

(b) In determining consolidated income after fixed charges for any year any adjustment necessary to correct the income account for any prior year, whether before or after January 1, 1944, shall be made by appropriate entries and may be made either in the accounts of the current year (unless in violation of the applicable orders, instructions and regulations) or, in the discre-

tion of the Board of Directors and subject to any requisite approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction, may be made in whole or in part in the accounts of any subsequent year or years; and in determining Available Net Income for any year any such entries made in the accounts of that year to adjust entries in the income accounts of prior years, whether cleared through income or profit and loss accounts, shall be treated as items affecting the income accounts for the year in which they are entered on the books.

(c) All computations of Available Net Income shall be made on a calendar year basis and each calendar year shall constitute an income period.

(d) Available Net Income for each of the years 1944 and 1945 shall be computed in the same manner as if the Railroad Company had come into ownership and possession on January 1, 1944, of the properties operated during said years by the trustees of the Debtor's property in the reorganization proceedings hereinabove mentioned, and had issued as of January 1, 1944, the Bonds of Series A and all other new securities issuable under the Plan except the Modified Terre Haute Bonds.

(5) "Board of Directors" shall mean the Board of Directors of the Railroad Company as from time to time constituted or, except when the vote of a specified percentage or number of the whole Board of Directors is required, any finance committee or other committee of the Board of Directors which shall be authorized by resolution of the Board of Directors or by the by-laws of the Railroad Company to act in place of the Board of Directors during any period or for any purpose germane to the Mortgage.

(6) "Bondable Expenditures" shall mean the amount of Gross Expenditures minus the sum of:

(a) The Cost of Additions and Betterments acquired or constructed through grants or donations;

(b) The Cost of Additions and Betterments to the extent acquired or constructed from the use of the proceeds of insurance on road property retired and not replaced;

(c) The Cost of Additions and Betterments to the extent acquired or constructed through funds made available by salvage recovered from mortgaged road property retired and not replaced;

(d) The Cost of Additions and Betterments acquired by the Railroad Company subject to any Prior Lien whenever the total principal amount of Outstanding Prior Lien Bonds secured by such Prior Lien exceeds 75% of the Cost of such Additions and Betterments, including in such Cost the principal amount of such Outstanding Prior Lien Bonds whether or not issued or assumed by the Railroad Company;

(e) The amount of any reduction in the Cost of Additions and Betterments required by Section 3 of Article VIII with respect to any Equipment which shall be shown not to be new Equipment on the date of any Application for the authentication and delivery of Bonds or the withdrawal, payment or application of any cash under any provision of the Mortgage;

(f) An amount equal to 133⅓% of the principal amount of all Outstanding Prior Lien Bonds, and of all Bonds and General Mortgage Bonds issued on the basis of the pledge and deposit of Prior Lien Bonds, unless the Cost of Additions and Betterments securing such Prior Lien Bonds is deducted under clause (d) of this definition;

(g) An amount equal to 133⅓% of the principal amount of all Bonds and General Mortgage Bonds authenticated and delivered on the basis of the pledge of (i) Railroad Subsidiary Bonds of a Railroad Subsidiary the property of which shall subsequently have been ac-

quired by the Railroad Company as, or substantially as, an entirety, or (ii) Securities of any other corporation the property of which shall have been acquired by the Railroad Company, subsequent to such pledge, under the provisions of Sections 7 and 8 of Article X;

(h) The amount of Gross Expenditures that shall have become Bonded; and

(i) The amounts credited to Capital Accounts after December 31, 1943, in accordance with the requirements of the Uniform System of Accounts, by reason of the retirement of mortgaged road property replaced.

(7) "Bonded," when used with reference to Bonds, Additions and Betterments, Gross Expenditures, or Bondable Expenditures shall mean that such Bonds, Additions and Betterments, Gross Expenditures or Bondable Expenditures have been made the basis by the Railroad Company for (a) the authentication and delivery of any Bonds or General Mortgage Bonds, (b) the reduction of the amount of cash required to be deposited with the Trustee for the release of any property from the lien of the Mortgage or with the trustee of the General Mortgage for the release of any property from the lien of the General Mortgage, or (c) the withdrawal, payment or application of any cash held by the Trustee under any provision of the Mortgage or by the trustee of the General Mortgage under any provision thereof; and, when used with reference to Railroad Subsidiary Bonds, Special Securities, Investment Securities or Prior Lien Bonds, or any securities acquired in substitution therefor, shall mean that such Bonds or Securities, or any securities acquired in substitution therefor, have been made the basis by the Railroad Company for (a) the authentication and delivery of any Bonds or General Mortgage Bonds, or (b) the withdrawal, payment or application of any cash held by the Trustee under any provision of the Mortgage, or by the trustee of the General Mortgage under any provision thereof.

All of the mortgaged property owned by the Railroad Company, and by the trustees of the Debtor's property in the reorganization proceedings above mentioned, on January 1, 1944, shall for all purposes of the Mortgage be deemed to be Bonded.

If any Gross Expenditures, Bondable Expenditures, Bonds, Railroad Subsidiary Bonds, Special Securities, Investment Securities or Prior Lien Bonds, made the basis for any of the foregoing purposes, shall be in excess of the amount required for the particular purpose, such excess shall not be deemed to be Bonded.

(8) "Bondholders" shall mean, as of any particular date, all holders of coupon Bonds not registered as to principal and all registered owners of coupon Bonds registered as to principal and of registered Bonds without coupons, provided such Bonds, whether coupon or registered, are Outstanding Bonds.

(9) "Bonds" shall mean all bonds of all series which have been authenticated and delivered at any time under the Mortgage.

(10) "Capital Accounts" shall mean the following present accounts, or similar accounts performing the functions of said present accounts, maintained by the Railroad Company and by the trustees of the Debtor's property in the reorganization proceedings above mentioned, in accordance with the Uniform System of Accounts:

Account 701—Road and Equipment Property
Account 702—Improvements on Leased Property, and
Account 705—Miscellaneous Physical Property.

(11) "Certified Resolution" shall mean a resolution or resolutions certified by the Secretary or an Assistant Secretary of the Railroad Company, under its corporate seal, as having been duly adopted by the Board of Directors at a meeting held on a specified date and as being in full force and effect as of the date of certification.

(12) "Chief Accounting Officer" shall mean, as of any particular time, the officer having general supervision over the accounts of the Railroad Company or his principal assistant.

(13) "Class I Carrier" shall mean any common carrier corporation which, for the calendar year next preceding the time of any transaction requiring a determination thereof under any provision of the Mortgage, had gross operating revenue, determined in accordance with the Uniform System of Accounts, of more than One Million Dollars.

(14) "Contingent Interest" shall mean the interest on the General Mortgage Bonds or other obligations of the Railroad Company and the Modified Terre Haute Bonds to the extent that such interest is payable on condition that there is Available Net Income or other funds applicable to such payment.

(15) "Cost of Additions and Betterments" shall mean, with respect to any particular Additions and Betterments, the amount properly charged to Capital Accounts as the cost or investment of the Railroad Company therein, and, with respect to any period of time, the aggregate of all such amounts properly charged to Capital Accounts during such period.

(16) "Daily Newspaper" shall mean, with respect to any City or Borough, a newspaper printed in the English language and customarily published on each business day and of general circulation in such City or Borough.

(17) "Debt Securities" shall mean the bonds, notes, certificates of indebtedness and other obligations and claims for the payment of money of any corporation or analogous legal entity.

(18) "Engineer" shall mean, as of any particular time, the Chief Engineer of the Railroad Company or his principal assistant.

(19) "Engineer's Certificate" shall mean a certificate signed and verified by the Engineer.

(20) "Equipment" shall mean locomotives, however propelled or operated, passenger, freight, mail, express, baggage or other railway cars, work cars, buses, tractors, trailers, trucks, automobiles, aircraft, boats, vessels, tugs, lighters, floats, barges, ferries and any and all other vehicles and conveyances used for the transportation of passengers, employees, freight, mail, express, baggage and materials by land, air or water.

(21) "Equipment Obligation" shall mean with respect to the Railroad Company any obligation or guaranty of the Railroad Company (other than Bonds and General Mortgage Bonds), and with respect to a Railroad Subsidiary any obligation or guaranty of such Subsidiary, issued under, and secured by a right, charge, lien or title with respect to Equipment evidenced by, an equipment trust agreement, conditional sale agreement, rental agreement, lease, chattel mortgage or other such instrument.

(22) "Event of Default" shall mean any event defined as such in Section 2 of Article XVI.

(23) "General Mortgage" shall mean the indenture executed and delivered by the Railroad Company to Harris Trust and Savings Bank, as trustee, dated as of January 1, 1944, as amended, modified or supplemented from time to time, or any mortgage having a substantially equivalent lien.

(24) "General Mortgage Bonds" shall mean all bonds authenticated and delivered under the General Mortgage.

(25) "Gross Expenditures" shall mean the Cost of Additions and Betterments, except:

(a) Additions and Betterments acquired from others which shall be required or permitted by the Uniform System of Accounts to be charged to Capital Accounts at the original cost thereof when first devoted to railroad purposes, to the extent that such original cost exceeds the cost or investment of the Railroad Company therein;

(b) Additions and betterments located in any leasehold subject to the lien of the Mortgage, unless the lease by its terms expires not earlier than 10 years subsequent to the date of maturity of the latest maturing Bonds then outstanding or Bonds for the authentication and delivery of which Application is then being made, or unless the Railroad Company has the right to remove such Additions and Betterments or to be reimbursed for the Cost thereof upon termination of the lease;

(c) Additions and Betterments representing Equipment that is not new when acquired by the Railroad Company;

(d) Additions and Betterments representing Equipment that is or has been security by lien or otherwise for any Equipment Obligation;

(e) Additions and Betterments representing improvements or betterments of Equipment; and

(f) Additions and Betterments in an amount equal to the funds which under the provisions of Section 24 of Article IX the Railroad Company has covenanted shall be applied only to provide for Gross Expenditures and which have not been so applied.

(26) "Investment Securities" shall mean the Securities owned by the Railroad Company, of any corporation owning one or more lines of railroad, bridges or railroad terminals

connected directly, or by leasehold rights, trackage rights or other similar operating rights, with the lines of railroad owned by the Railroad Company except Special Securities and Securities of a Railroad Subsidiary.

(27) "Modified Terre Haute Bonds" shall mean the bonds issued under the respective Modified Terre Haute Mortgages pursuant to the Plan and the order of the Court, dated September 19, 1945, declaring the Plan effective as to the holders of the outstanding bonds secured by said Mortgages as constituted prior to the indentures supplemental thereto dated January 1, 1946.

(28) "Modified Terre Haute Mortgages" shall mean the following mortgages, as modified by supplemental indentures dated January 1, 1946:

(a) First mortgage of The Bedford Belt Railway Company to The Equitable Trust Company, trustee, dated June 1, 1898, as modified by supplemental indenture of The Bedford Belt Railway Company and Chicago, Terre Haute and Southeastern Railway Company to Mercantile National Bank of Chicago and Benjamin H. Rubenzik, successor trustees, dated January 1, 1946, securing The Bedford Belt Railway Company's First Mortgage Bonds, due January 1, 1994, in the principal amount of $350,000;

(b) First mortgage of The Southern Indiana Railway Company to The Equitable Trust Company, trustee, dated February 1, 1901, as modified by supplemental indenture of Chicago, Terre Haute and Southeastern Railway Company to Girard Trust Company, successor trustee, dated November 30, 1910, and as further modified by supplemental indenture of The Southern Indiana Railway Company and Chicago, Terre Haute and Southeastern Railway Company to Girard Trust Company, successor trustee, dated January 1, 1946, securing The Southern Indiana Railway Company's First Mortgage Bonds, due January 1, 1994, in the principal amount of $7,287,000;

(c) First and refunding mortgage of Chicago, Terre Haute and Southeastern Railway Company to Illinois Trust and Savings Bank and William H. Henkle, trustees, dated December 1, 1910, as modified by supplemental indenture of Chicago, Terre Haute and Southeastern Railway Company to Continental Illinois National Bank and Trust Company of Chicago and Frank F. Taylor, successor trustees, dated January 1, 1946, securing Chicago, Terre Haute and Southeastern Railway Company's First and Refunding Mortgage Bonds, due January 1, 1994, in the principal amount of $9,573,000; and

(d) Income mortgage of Chicago, Terre Haute and Southeastern Railway Company to First Trust and Savings Bank and Louis Boisot, trustees, dated December 1, 1910, as modified by supplemental indenture of Chicago, Terre Haute and Southeastern Railway Company to The First National Bank of Chicago and Robert L. Grinnell, successor trustees, dated January 1, 1946, securing Chicago, Terre Haute and Southeastern Railway Company's Income Mortgage Bonds, due January 1, 1994, in the principal amount of $6,500,000.

(29) "Mortgage" shall mean this indenture as originally executed or as the same may be supplemented, modified or amended from time to time by any indenture supplemental hereto.

(30) "Officers' Certificate" shall mean a certificate which is signed and verified by the President or a Vice President and by the Chief Accounting Officer of the Railroad Company.

(31) "Opinion of Counsel" shall mean a written opinion of counsel who shall be satisfactory to the Trustee and who may be counsel for the Railroad Company.

(32) "Otherwise Financed" shall mean, with respect to Additions and Betterments, the expenditures therefor to the extent they have been financed by the Railroad Company through:

(a) Grants or donations;

(b) Proceeds of any insurance on any property retired;

(c) Funds made available by salvage recovered from property retired;

(d) Funds made available by charges to depreciation reserves on account of service losses on depreciable road property retired and replaced;

(e) Funds made available by charges to operating expenses on account of service losses on non-depreciable property retired and replaced;

(f) The Additions and Betterments Fund;

(g) The Reserve and Retirement Fund;

(h) Proceeds from sales of mortgaged property not required to be deposited with the Trustee or with the trustee or mortgagee of any Prior Lien; or

(i) The issuance or assumption of, or the acquisition of Additions and Betterments subject to, Prior Lien Bonds or Equipment Obligations; and

(j) The surrender or other use, under the provisions of Section 7 or 8 of Article X, of Securities theretofore Bonded.

(33) "Outstanding Bonds" shall mean, as of any particular date, all Bonds of all series when no particular series is specified in the context, or all Bonds of any specified series, whether in the form of coupon Bonds or registered Bonds without coupons or both, authenticated and delivered by the Trustee under the Mortgage, except, with respect to all Bonds of all series or all Bonds of any specified series, as the case may be.

(a) Bonds theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;

(b) Bonds for the payment, purchase or redemption of which moneys in the necessary amount shall have been

deposited in trust with the Trustee, provided that if such Bonds are to be redeemed notice of such redemption shall have been given, or provision satisfactory to the Trustee shall have been made for giving such notice, as provided in Article IV;

(c) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to the provisions of Section 7 of Article II; and

(d) Bonds then owned and held by the Railroad Company, as evidenced by an Officers' Certificate delivered to the Trustee.

(34) "Outstanding Prior Lien Bonds" shall mean, as of any particular date, all Prior Lien Bonds authenticated and delivered by the trustee under the mortgage or other lien securing the same, except:

(a) Prior Lien Bonds theretofore redeemed or cancelled;

(b) Prior Lien Bonds deposited and pledged with the Trustee or with the trustee of the General Mortgage;

(c) Prior Lien Bonds held in pledge by the trustee or other holder of the mortgage or other lien securing such Prior Lien Bonds for the purpose of any sinking fund or analogous fund for the retirement of Prior Lien Bonds for which provision has been made in the instrument evidencing such mortgage or other lien;

(d) Prior Lien Bonds for the payment or redemption of which moneys in the necessary amount shall have been irrevocably deposited in trust with the Trustee or with the trustee or other holder of the mortgage or other lien securing such Prior Lien Bonds or in trust with any agency satisfactory to the Trustee, provided that if such Prior Lien Bonds are to be redeemed notice of such redemption shall have been given, or provision shall have been made for giving such notice, to the satisfaction of the Trustee; and

(e) Lost, stolen, mutilated or destroyed Prior Lien Bonds in lieu of or in substitution for which other Prior Lien Bonds shall have been issued.

(35) "Permitted Encumbrances" shall mean, as of any particular time, any of the following:

(a) Liens for taxes, assessments or governmental charges not then delinquent; liens for workmen's compensation awards and similar obligations not then delinquent; liens or encumbrances in connection with litigation against the Railroad Company or any Railroad Subsidiary concerning claims for personal injuries or damages to property arising out of the operation of its business which are entitled to priority over the lien of the Mortgage by operation of law; other liens not exceeding $100,000 in the aggregate arising out of litigation against the Railroad Company; other liens against any Railroad Subsidiary in an amount not exceeding $20,000; liens for the payment or discharge of which provisions satisfactory to the Trustee have been made; mechanics', laborers', materialmen's and similar liens not then delinquent; any of such liens irrespective of amount, whether or not delinquent, the validity of which is being contested at the time by the Railroad Company, or by any Railroad Subsidiary, in good faith; and undetermined liens or charges incidental to construction.

(b) Liens securing indebtedness neither payable nor assumed nor guaranteed by the Railroad Company or by any Railroad Subsidiary, nor on which it customarily pays interest, on property with respect to which the Railroad Company or any Railroad Subsidiary owns easements or rights of way.

(c) Rights reserved to or vested in any governmental authority or agency or in any municipality by the terms of any franchise, grant, license or permit or by any provision of law to terminate such franchise, grant, license or permit, or to purchase or appropriate or recapture, or to designate a purchaser of, any of the mortgaged

property; or to demand and collect any tax or other compensation for the use of streets or other public places or to control or regulate the mortgaged property.

(d) Any obligation or duty affecting the mortgaged property, or the uses, removal, control or regulation thereof by any public authority, under any franchise, grant, license or permit or provision of law.

(e) Rights of lessees under leases from the Railroad Company or any Railroad Subsidiary, and interests of others than the Railroad Company or any Railroad Subsidiary in property owned jointly or in common.

(f) Easements, rights of way, exceptions, reservations, restrictions, conditions, limitations, covenants, adverse rights or interests and any other defects or irregularities in title affecting the mortgaged property which do not materially affect the use of the mortgaged property for the purposes for which it is held by the Railroad Company or any Railroad Subsidiary, as the case may be, and may be properly ignored as to their effect upon the security of the Mortgage. Any Opinion of Counsel required by the Mortgage may recite that, as to the matters covered by this clause (f), it is based upon a written statement of the Engineer.

(36) "Prior Lien" shall mean any lien prior to the lien of the Mortgage, except Equipment Obligations and Permitted Encumbrances, existing or placed on any property at the time of the acquisition thereof by the Railroad Company.

(37) "Prior Lien Bonds" shall mean any indebtedness or obligation secured by a Prior Lien and outstanding at the time of the acquisition by the Railroad Company of the property securing the same.

(38) "Railroad Company" shall mean and include not only the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the party of the first part to the Mortgage, but also

any corporation that shall have complied with the provisions of Article XII and that shall have become a successor corporation as defined in Section 1 of said Article XII.

(39) "Railroad Subsidiary" shall mean any corporation owning one or more lines of railroad, bridges or railroad terminals connected directly, or by leasehold rights, trackage rights, or other similar operating rights, with the lines of railroad owned by the Railroad Company, which the Board of Directors shall deem necessary or useful in connection with the operation of the Railroad Company's system and of which at least 90% of the total outstanding capital stock of each class is owned by the Railroad Company.

(40) "Railroad Subsidiary Bonds" shall mean the bonds of a Railroad Subsidiary secured by a general lien on all or substantially all of its physical property, subject only to Permitted Encumbrances and to the prior right, charge, lien or title of Equipment Obligations of such corporation:

(a) Issued prior to, and outstanding upon, the date such corporation shall become a Railroad Subsidiary, if such bonds do not exceed in principal amount 75% of the cost of the then unretired physical property of such Railroad Subsidiary (other than Equipment then or at any previous time securing any Equipment Obligation of such Railroad Subsidiary) as evidenced by an Officers' Certificate delivered to the Trustee, or the then fair value thereof as evidenced by an Engineer's Certificate delivered to the Trustee, whichever shall be less; and

(b) Issued after the date such corporation shall have become a Railroad Subsidiary, if such bonds do not exceed in principal amount 75% of the expenditures of such Railroad Subsidiary after said date for net additions to its physical property (other than Equipment then or at any previous time securing any Equipment Obligation) determined in the same manner as Bondable Ex-

penditures but disregarding such adjustments required by the definitions of Gross Expenditures and Bondable Expenditures as are not applicable to said Railroad Subsidiary, all as evidenced by an Officers' Certificate delivered to the Trustee.

(41) "Reserve and Retirement Fund" shall mean the fund created and maintained by the Railroad Company in accordance with the provisions of Article VII.

(42) "Securities" shall mean Debt Securities or Stocks or both.

(43) "Special Securities" shall mean Securities of a corporation or analogous legal entity in which the aggregate cost or investment of the Railroad Company is less than $50,000.

(44) "Stocks" shall mean any proprietary interest in a corporation or other analogous legal entity or certificates evidencing the same.

(45) "Uniform System of Accounts" shall mean (a) the system of accounts for steam railroads prescribed by the Interstate Commerce Commission, and the instructions, interpretations, regulations and orders of the Interstate Commerce Commission thereunder, in effect at the date of the execution and delivery of the Mortgage or as thereafter modified, or (b) any other system of accounts thereafter prescribed by the Interstate Commerce Commission or by any other public regulatory body having similar jurisdiction over the accounts of the Railroad Company, or (c) to the extent not covered by the systems of accounts referred to in clauses (a) and (b) above, any system of accounts that is in accord with sound accounting principles as determined by a certified public accountant selected by the Railroad Company and approved by the Trustee.

ARTICLE II

Description of Bonds

Section 1. The Bonds shall be designated generally as the Railroad Company's "First Mortgage Bonds" and may be issued in one or more series as shall be authorized from time to time in the manner provided in the Mortgage.

The authorized aggregate principal amount of Bonds shall be unlimited, except as may be provided hereinafter and except as may be limited by applicable federal and state laws now or hereafter enacted.

Section 2. The initial series of Bonds shall be designated as "Series A" and shall be limited in aggregate principal amount to $59,515,100, and the Bonds of Series A to be issued pursuant to Section 1 of Article III shall:

(a) be designated "First Mortgage 4% Bonds, Series A, due January 1, 1994";

(b) be dated as of January 1, 1944, except that all registered Bonds without coupons issued prior to January 1, 1946, shall be dated July 1, 1945, and all registered Bonds without coupons issued after December 31, 1945, shall be dated as of the first day following the close of the latest period for which interest on Bonds of Series A shall have been paid or made available for payment;

(c) mature January 1, 1994, or, if the date of payment be extended in the manner provided in Article XIX, on such extended date, unless previously redeemed pursuant to Article IV or declared due and payable pursuant to Article XVI;

(d) bear interest payable semi-annually on the first days of January and July in each year at the rate of 4% per annum from July 1, 1945, (except that registered Bonds of Series A without coupons shall bear interest from and including the date thereof) until the principal

sum thereof becomes due and payable as herein provided, and if default be made in the payment of said principal sum when so due and payable, thereafter (to the extent permitted by law) at the highest rate of interest borne by any of the Outstanding Bonds until the Railroad Company's obligation with respect to the payment of said principal sum shall be discharged as provided in the Mortgage, but (in the case of coupon Bonds) as to interest due on or before the date said principal sum becomes due and payable, only upon presentation and surrender of the respective coupons thereto appertaining as they shall severally mature;

(e) be payable, both as to principal, premium, if any, and interest, at the office or agency of the Railroad Company in the City of Chicago, State of Illinois, or at the option of the holder or registered owner at the office or agency of the Railroad Company in the Borough of Manhattan, City and State of New York, 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;

(f) be redeemable before maturity at the option of the Railroad Company upon the terms stated in Article IV;

(g) be issued as coupon Bonds in denominations of $100, $500 and $1,000, and as registered Bonds without coupons in denominations of $1,000, $5,000 and $10,000, and, with the consent of the Railroad Company, such consent as to any particular Bond to be evidenced conclusively by the execution thereof by the officers on behalf of the Railroad Company, in denominations in excess of $10,000; shall be exchangeable as between authorized denominations (except that, unless otherwise ordered by the Railroad Company for the purpose of effecting distribution of Bonds of Series A pursuant to the Plan, Bonds of the denominations of $100 and $500 shall in each case be exchangeable only for Bonds of the denomination of $1,000, and Bonds of the demonination of $1,000 shall not be exchangeable for Bonds of the denominations of

$100 or $500); and shall be transferable, and the coupon Bonds shall be registerable as to principal, at the office or agency of the Railroad Company in the City of Chicago, State of Illinois, and in the Borough of Manhattan, City and State of New York, as provided in Section 5 of this Article II; and

(h) be substantially in the respective forms recited in the preambles of the Mortgage, and bear such serial numbers as may be approved by the officers executing the same on behalf of the Railroad Company, such approval as to any particular Bond to be evidenced conclusively by the execution thereof by such officers.

Section 3. The Bonds of series other than Series A, and the coupons, if any, appertaining thereto, shall be substantially in the forms hereinbefore recited for the Bonds of Series A, with such omissions, variations and insertions as may be authorized, permitted or required by the Mortgage and as may be prescribed in the supplemental indenture providing for the creation of such other series.

The Bonds, and the coupons, if any, appertaining thereto, may contain such specifications, descriptive words and recitals, and may have such letters, numbers or other marks of identification or designation and such legends or endorsements printed, lithographed or engraved thereon, as the Railroad Company may deem appropriate and as are not inconsistent with the provisions of the Mortgage or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any stock exchange on which the Bonds may be listed or to conform to usage.

The several series of Bonds may differ from the Bonds of Series A and as between series in respect of any or all of the following matters:

(a) title;

(b) date;

(c) date of maturity (which shall not be earlier than the date of maturity of Bonds of Series A);

(d) interest rate;

(e) interest payment dates;

(f) place or places for the payment of principal and for the payment of interest;

(g) whether issuable as registered Bonds without coupons, or as coupon Bonds with or without the privilege of registration as to principal, or both, and the respective denominations of each and the place or places, if any, and the procedure for registration as to principal of coupon Bonds and for registration and transfer of registered Bonds without coupons;

(h) provisions, if any, for exchanges of coupon Bonds of all or specified denominations for registered Bonds without coupons, of registered Bonds without coupons of all or specified denominations for coupon Bonds, of coupon Bonds for coupon Bonds of other denominations, and of registered Bonds without coupons for registered Bonds without coupons of other denominations, and the place or places for such exchanges;

(i) limitations, if any, upon the aggregate principal amount of Bonds of the series which may be issued;

(j) provisions, if any, for the payment of principal or interest, or both, without deduction for taxes, or for reimbursement of taxes in case of payment thereof by the holders;

(k) provisions, if any, for exchangeability of Bonds of one series for Bonds of another series;

(l) provisions, if any, with regard to any obligation of the Railroad Company to permit the conversion of Bonds of any series into stock or other securities of the Railroad Company;

(m) provisions, if any, reserving to the Railroad Company the right to redeem all or any part of the Bonds of any series before maturity;

(n) provisions, if any, for any sinking fund with respect to the Bonds of any series; and

(o) any other provisions not in conflict with the provisions of the Mortgage.

In authorizing the issue of any series of Bonds (other than Bonds of Series A), all matters in respect of the Bonds of such series set forth in clauses (a) to (g), inclusive, of this Section 3, and the form of the Bonds and coupons, if any, of such series, shall be determined and specified, and any and all matters permitted by clauses (h) to (o), inclusive, of this Section 3 may be determined and specified, in the supplemental indenture providing for the creation of such series.

Bonds of any particular series shall be identical except that they may be of different numbers, of different denominations, in the form of coupon Bonds or registered Bonds without coupons, and may have serial maturities, in which case the several maturities may differ with respect to redemption price and interest rate.

Section 4. The Bonds shall be signed on behalf of the Railroad Company by its President or a Vice President, and its corporate seal shall be affixed thereto and attested by its Secretary or an Assistant Secretary. Only such Bonds as shall bear thereon a certificate of authentication executed by the Trustee substantially in the form hereinbefore recited shall be secured by the Mortgage or be entitled to any right or benefit hereunder; and no Bond and no coupon thereunto appertaining shall be or become valid or obligatory for any purpose until such certificate shall have been duly executed on such Bond. Such certificate executed by the Trustee upon any Bond executed by the Railroad Company shall be conclusive evidence that the Bond so authenticated has been duly

executed, authenticated and delivered hereunder and is one of the Bonds described in the Mortgage. The Trustee shall not authenticate or deliver any coupon Bond until all matured coupons thereunto appertaining shall have been detached and cancelled, except as otherwise provided in Section 5 or Section 7 of this Article II.

In case any person who, as an officer of the Railroad Company, shall have signed any of the Bonds or attested the seal thereon shall cease to be such officer before the Bonds so signed or sealed shall have been authenticated and delivered by the Trustee or disposed of by the Railroad Company, such Bonds, nevertheless, may be authenticated, delivered and disposed of as though the person had not ceased to be such officer; and any Bond may be signed on behalf of the Railroad Company and the seal of the Railroad Company may be attested by such persons as, at the actual date of the execution of the Bond, shall be the proper officers of the Railroad Company, although at the nominal date of such Bond any such person was not such officer.

The coupons attached to coupon Bonds shall bear the facsimile signature of the present Treasurer or of any future Treasurer of the Railroad Company, and for that purpose the Railroad Company may use the facsimile signature of any person who shall have been such Treasurer, notwithstanding the fact that at the time when such coupon Bonds shall be authenticated and delivered or disposed of he shall have ceased to be the Treasurer of the Railroad Company.

Section 5. In all cases in which the privilege of exchanging Bonds of any series exists and is exercised, the Bonds to be exchanged shall be surrendered at any office or agency maintained by the Railroad Company in accordance with the provisions of Section 2 of Article IX with respect to the Bonds of such series, and the Railroad Company shall execute and

the Trustee shall authenticate and deliver in exchange therefor the Bond or Bonds which the holder making the exchange shall be entitled to receive. All coupon Bonds surrendered for exchange and delivered in exchange shall have attached thereto all unmatured coupons appertaining thereto and, in case at the time of any such exchange interest on the Bonds of the particular series is in default, shall in addition have attached thereto all matured coupons in default.

The Railroad Company shall keep, at the offices or agencies to be maintained by the Railroad Company in accordance with the provisions of Section 2 of Article IX, a register or registers in which, subject to such reasonable regulations as it may prescribe, the Railroad Company shall register Bonds entitled to registration and shall transfer registered Bonds. At all reasonable times such register or registers shall be open for inspection by the Trustee and, upon demand by holders of at least 10% in aggregate principal amount of Outstanding Bonds, by such holders.

Upon surrender for transfer of any registered Bond without coupons of any series at any office or agency maintained with respect to the Bonds of such series, the Railroad Company shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new registered Bond or Bonds without coupons of the same series and maturity for a like aggregate principal amount.

Upon presentation for registration of any coupon Bond registerable as to principal at any such office or agency, such Bond shall be registered as to principal in the name of the holder and the fact of such registration shall be noted on the Bond. No transfer of any coupon Bond so registered as to principal shall be valid unless made at any such office or agency and similarly noted on the Bond, but the same may be discharged from registration by being in like manner

transferred to bearer, and thereupon transferability by delivery shall be restored. Coupon Bonds entitled to registration shall continue to be subject to successive registrations and transfers to bearer, at the option of the holders. Such registration of any coupon Bond shall not affect the negotiability of the coupons appertaining thereto, which shall continue to be payable to bearer and transferable by delivery.

All Bonds presented or surrendered for exchange, transfer, registration or discharge from registration as provided in this Section 5 shall be in bearer form or, if registered, shall be accompanied by a written instrument or instruments of transfer in form approved by the Railroad Company duly executed by the registered holder or his legal representative, either in person or by duly authorized attorney.

Upon every exchange, transfer, registration or discharge from registration of Bonds the Railroad Company may require the payment of a sum sufficient to cover any tax or taxes or other governmental charge and in addition thereto a further sum not exceeding $2.00 for each new Bond then issued, except as otherwise provided in Section 6 of this Article II, in Section 3 of Article IV and in Section 6 of Article XIX.

The Railroad Company shall not be required to make transfers or exchanges of registered Bonds without coupons of any series for a period of 10 days next preceding any interest payment date of the Bonds of such series or next preceding any selection by lot of Bonds to be redeemed. The Railroad Company shall not be required to make transfers or exchanges of any Bonds selected for redemption.

If one or more Events of Default shall have occurred and be continuing, nevertheless the Railroad Company shall duly execute and the Trustee shall authenticate and deliver Bonds

for the purposes of making the exchanges and transfers provided for in this Section 5.

Section 6. Pending the preparation of definitive Bonds of any series, the Railroad Company may execute and the Trustee shall authenticate and deliver one or more temporary Bonds (printed or lithographed) of such series with or without one or more coupons and of any denomination or denominations, in bearer form, registerable or not registerable as to principal, or in registered form, which shall be substantially in the form of the definitive Bonds of such series, but with any omissions, insertions and variations appropriate for temporary Bonds, all as authorized by the Board of Directors and as provided in the written order of the Railroad Company for the authentication and delivery thereof. Every such temporary Bond shall be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Bonds. When definitive Bonds of any series are prepared and ready for delivery, the temporary Bonds of such series may be surrendered in exchange therefor, and the Trustee shall authenticate and deliver in exchange therefor, without expense to the holder, an equal aggregate principal amount of definitive Bonds of the same series and maturity. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefit and security of the Mortgage as definitive Bonds authenticated and delivered hereunder. Interest when and as payable upon temporary Bonds without coupons in bearer form and not registered as to principal shall be paid only upon presentation thereof for notation thereon of such payment.

When temporary Bonds of any series are authenticated and delivered, the Railroad Company will cause definitive

Bonds of such series to be prepared without unnecessary delay.

Section 7. In case any temporary or definitive Bond and any coupons appertaining thereto shall become mutilated or be destroyed, lost or stolen, the Railroad Company in its discretion may execute, and upon the written request of the Railroad Company, signed by its President or a Vice President, the Trustee may authenticate and deliver, a new Bond (with coupons corresponding to the coupons, if any, appertaining to the mutilated, destroyed, lost or stolen Bond) of the same series and maturity and of like tenor, in exchange and substitution for the mutilated Bond and its coupons, if any, or in lieu of and substitution for the Bond and its coupons, if any, so destroyed, lost or stolen, or, if any such Bond or any coupon shall have matured or shall be about to mature or shall have been called for redemption, instead of issuing a substituted Bond or coupon the Railroad Company may pay the same without surrender thereof. In case of destruction, loss or theft of any Bond or coupon, the applicant for a substituted Bond or for such payment shall furnish to the Railroad Company, to the Trustee and to any paying agent of the Railroad Company, in their discretion, evidence to their satisfaction of the destruction, loss or theft of such Bond and its coupons, if any, and of the ownership thereof, and also such security or indemnity as may be required by the Railroad Company, the Trustee and such paying agent to save each of them harmless. The Trustee may authenticate any such substituted Bond and deliver the same with appurtenant coupons, if any, or the Trustee or any paying agent of the Railroad Company may make any such payment, upon the written request or authorization of the Railroad Company, signed by its President or a Vice President, and shall incur no liability to anyone by reason of anything done or omitted to be done

by it in good faith under the provisions of this Section 7. Upon the issue of any substituted Bond, the Railroad Company may require the payment of a sum sufficient to cover any tax or taxes or other governmental charge and any other expense connected therewith, and also of a further sum not exceeding $2.00 for each Bond so issued in substitution.

Notwithstanding any limitations contained in the Mortgage, any Bonds and coupons issued under the provisions of this Section 7 shall constitute original contractual obligations, in accordance with their terms, on the part of the Railroad Company, and shall be equally and ratably entitled to the benefit and security of the Mortgage with all other Bonds and coupons issued under the Mortgage, in accordance with the terms thereof.

Section 8. Except as otherwise provided in the Mortgage, all Bonds (and appurtenant coupons, if any) surrendered for the purpose of payment, redemption, exchange or transfer shall either be surrendered to the Railroad Company or any paying agent and by it delivered to the Trustee, or be surrendered to the Trustee, and shall be cancelled by the Trustee as and when so delivered or surrendered to it, and no Bonds or appurtenant coupons shall be issued under the Mortgage in lieu of Bonds or appurtenant coupons so surrendered except as expressly permitted by any of the provisions of the Mortgage. All coupons surrendered to the Railroad Company or any paying agent for the purpose of payment shall be cancelled and delivered to the Trustee.

The Trustee shall make appropriate notations in its records in respect of all Bonds and appurtenant coupons cancelled by it as aforesaid, shall cremate all such cancelled coupon Bonds not registered as to principal and all cancelled coupons, and may, in its discretion, cremate all such cancelled

coupon Bonds registered as to principal and registered Bonds without coupons, and shall deliver a certificate of any such cremation to the Railroad Company.

If the Railroad Company shall acquire any of the Bonds otherwise than as aforesaid, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Bonds unless and until the same are surrendered to the Trustee for cancellation.

ARTICLE III

Issuance of Bonds

Section 1. Upon the execution and delivery of the Mortgage, and whether before or after the recording of the Mortgage, Bonds of Series A in the aggregate principal amount of Fifty-nine Million Five Hundred Fifteen Thousand One Hundred Dollars ($59,515,100) may be executed by the Railroad Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Railroad Company, signed by its President or a Vice President, without any further action on the part of the Railroad Company.

No Bonds other than those authenticated and delivered pursuant to this Section 1 shall be authenticated or delivered by the Trustee pursuant to the provisions of this Article III at any time when the Railroad Company shall be in default in the payment of the principal of or interest on any Bonds or when an Event of Default shall have occurred and be continuing.

Section 2. From time to time and in the manner provided in this Section 2, Bonds of one or more series other than Series A may be executed by the Railroad Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Railroad Company, signed by its President or a Vice President, in an aggregate principal amount not exceeding 75% of the Bondable Expenditures during a period beginning January 1, 1944, and ending not more than 90 days prior to the date of the Application for the authentication of such Bonds, provided, however, that no Bonds shall be authenticated and delivered on the basis of Bondable Expenditures which have theretofore been Bonded, or in a principal amount which, when added to the amount of expenditures from the Additions and Betterments Fund and the

Reserve and Retirement Fund for or on account of the Gross Expenditures during such period, would exceed the Bondable Expenditures during such period, all as shown by the Officers' Certificate relating to the authentication and delivery of such Bonds.

Bonds shall be authenticated and delivered under this Section 2 upon delivery to the Trustee in each case of:

(a) An Application for the authentication of Bonds under this Section 2, stating the principal amount of Bonds the authentication of which is applied for;

(b) The documents specified in Section 8 of this Article III;

(c) An Officers' Certificate, dated not more than 30 days prior to the delivery thereof, stating:

(1) In the case of the first such Certificate, the Cost of Additions and Betterments, a computation showing the deductions required by the definitions of Gross Expenditures and Bondable Expenditures in Article I and the amount of Bondable Expenditures for the period beginning January 1, 1944, and ending not more than 90 days prior to the delivery of the Certificate to the Trustee;

(2) In the case of each subsequent Certificate, the Cost of Additions and Betterments, a computation showing the deductions required by the definitions of Gross Expenditures and Bondable Expenditures in Article I and the amount of Bondable Expenditures for the period beginning with the close of the period covered by the last previous Certificate delivered to the Trustee pursuant to this subsection (c) and ending not more than 90 days prior to the delivery of the Certificate to the Trustee, and the balance of the Bondable Expenditures at the beginning and at the close of the period covered by the Certificate;

(3) The amount of expenditures that have theretofore been made from the Additions and Betterments Fund and from the Reserve and Retirement Fund for or on account of Gross Expenditures;

(4) A computation showing the principal amount of Bonds that could be authenticated and delivered on the basis of the Application;

(5) A description of all property constituting Additions and Betterments acquired or constructed during the period covered by the Certificate in such reasonable detail as shall be sufficient to permit identification thereof or a statement of the amounts thereof by primary accounts according to the Uniform System of Accounts;

(6) With respect to any new Equipment described therein, the date or dates upon which each item of such Equipment was acquired by the Railroad Company or upon which construction by the Railroad Company was completed and the Cost of Additions and Betterments for the acquisition or construction thereof;

(7) If any of such Additions and Betterments are located on any leasehold, the date of expiration of the term of such lease and the Cost of the Additions and Betterments which the Railroad Company has the right to remove or to be reimbursed for upon the termination of the lease; and

(8) If any of such Additions and Betterments are subject to any Prior Lien, a computation showing that the inclusion thereof in the Application will not result in a violation of the covenant in respect of Additions and Betterments subject to Prior Liens in Section 13 of Article IX, and a description of any Prior Lien not described in any previous Certificate;

(d) All such deeds, supplemental indentures or instruments of further assurance, if any, as in the Opinion of

Counsel furnished pursuant to clause (e) below may be specified as necessary or advisable to subject to the lien of the Mortgage the property included in the Additions and Betterments shown in the Officers' Certificate required by clause (c) above, or, in the case of Additions and Betterments located on leaseholds, to subject such leaseholds to such lien;

(e) An Opinion of Counsel (i) that all property included in the Additions and Betterments shown in the Officers' Certificate required by clause (c) above, except such as is located on leaseholds, is subject to the lien of the Mortgage or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures or instruments of further assurance, if any, specified in said Opinion of Counsel, subject to no defect in title and subject to no lien thereon prior or equal to the lien of the Mortgage except the liens securing Prior Lien Bonds, if any, and Permitted Encumbrances, if any, and (ii) if any such property is located on any leasehold, as shown by the Officers' Certificate, that such leasehold (except the last day of the term thereof) is subject to the lien of the Mortgage, or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures or instruments of further assurance, if any, specified in said Opinion of Counsel, and extends for a period of time not less than 10 years beyond the latest maturity date of any Bonds outstanding or for the authentication and delivery of which application is being made, or that, under the terms of such leasehold, the Railroad Company has the right to be reimbursed in respect of the expenditures for such property or the right to remove the property upon the termination thereof; provided that such Opinion of Counsel may recite that it is based upon certificates or opinions of officers or engineers of the Railroad Company as to any factual matters not of public record; and

(f) If it shall appear from the Officers' Certificate required by clause (c) above that any Equipment is included in the Additions and Betterments then being

made the basis for the authentication and delivery of Bonds, a certificate of an engineer (who shall be appointed by the Board of Directors and satisfactory to the Trustee and who may be an officer or employee of the Railroad Company) establishing the estimated service life of such Equipment, and a supplemental indenture establishing a sinking fund meeting the requirements specified in Section 3 of Article VIII.

For the purposes of this Section 2 and of Section 3 of Article VIII, whenever new Equipment is included in the Additions and Betterments then being made the basis for the authentication and delivery of Bonds, it shall be presumed that such Bonds are issued on the basis of such Equipment to the extent of the Cost of Additions and Betterments for the acquisition or construction of new Equipment as stated in the Officers' Certificate then delivered to the Trustee pursuant to the requirements of clause (c) of this Section 2.

Section 3. From time to time and in the manner provided in this Section 3, Bonds of one or more series other than Series A may be executed by the Railroad Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Railroad Company, signed by its President or a Vice President, upon the deposit by the Railroad Company with the Trustee of a sum in cash equal to the principal amount of the Bonds so to be authenticated and delivered and upon delivery by the Railroad Company to the Trustee of (a) an Application for the authentication of Bonds under this Section 3, stating the principal amount of Bonds the authentication of which is applied for, (b) the documents specified in Section 8 of this Article III, and (c) an Officers' Certificate dated not more than 30 days prior to the delivery thereof to the Trustee which shall certify that any cash so deposited with the Trustee is not otherwise

required to be deposited with the Trustee or is not otherwise required to be used under any provision of the Mortgage or of the General Mortgage.

All cash so deposited (herein sometimes referred to as "escrowed cash") shall be held by the Trustee as part of the mortgaged property and may be withdrawn by the Railroad Company upon its written order, signed by its President or a Vice President, accompanied by an Application therefor and a Certified Resolution authorizing such Application, in an amount equal to the principal amount of each Bond or fraction of a Bond to the authentication and delivery of which the Railroad Company would be entitled under the provisions of Sections 2, 4, 5, 6 or 7 of this Article III. Upon applying for any such withdrawal, the Railroad Company shall comply with all applicable provisions of this Article III relating to the authentication and delivery of such Bonds except that the Railroad Company shall not be required to comply with any of the provisions of Section 8 of this Article III other than clause (d) (iv) (with such changes as shall be appropriate to the withdrawal of escrowed cash) and clause (e) of said Section 8. Any withdrawal of escrowed cash under this Section 3 shall be in lieu of the right of the Railroad Company to the authentication and delivery of Bonds to which the Railroad Company would otherwise be entitled under the provisions of Sections 2, 4, 5, 6 or 7 of this Article III.

The Railroad Company shall not be entitled to withdraw any escrowed cash pursuant to the provisions of this Section 3 at any time when an Event of Default shall have occurred and be continuing.

Whenever and so long as the amount of escrowed cash at any time held by the Trustee and not withdrawn by the Railroad Company under the provisions of this Section 3 shall exceed $10,000,000, no Bonds shall be issued by the Railroad

Company or authenticated by the Trustee under the provisions of this Section 3.

Section 4. From time to time and in the manner provided in this Section 4, Bonds of one or more series other than Series A may be executed by the Railroad Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Railroad Company, signed by its President or a Vice President, in an aggregate principal amount not exceeding the principal amount of Bonds of any other series which shall have been cancelled or surrendered to the Trustee for cancellation, or for the payment or redemption of which moneys in the necessary amount shall have been irrevocably deposited in trust with the Trustee; provided, however, (1) that no Bonds shall be authenticated and delivered under this Section 4 on the basis of Bonds of any other series theretofore Bonded, or theretofore acquired, retired, cancelled or paid by means of expenditures from the Reserve and Retirement Fund or through the operation of any sinking fund or analogous fund established pursuant to the Mortgage or pursuant to the General Mortgage, and (2) that in case of the redemption of Bonds of any other series all action and notice required for such redemption shall have been taken and given, or provision made therefor satisfactory to the Trustee.

Bonds shall be authenticated and delivered under this Section 4 upon delivery to the Trustee in each case of:

(a) An Application for the authentication of Bonds under this Section 4, stating the principal amount of Bonds the authentication of which is applied for;

(b) The documents specified in Section 8 of this Article III;

(c) An Officers' Certificate dated not more than 30 days prior to the delivery thereof which shall (i) describe and

state the amount of Bonds the cancellation or surrender for cancellation or the payment or redemption of which forms the basis of the Application; (ii) state that said Bonds have not theretofore been Bonded and have not theretofore been acquired, retired, cancelled or paid by means of expenditures from the Reserve and Retirement Fund or through the operation of any sinking fund or analogous fund established pursuant to the Mortgage or pursuant to the General Mortgage; and (iii) certify that any moneys deposited in trust as required by paragraph (d) of this Section 4 are not otherwise required to be deposited with the Trustee or are not otherwise required to be used under any provision of the Mortgage or of the General Mortgage; and

(d) Either (i) said Bonds, cancelled or for cancellation, which form the basis of the Application, together with all unmatured coupons and all unpaid matured coupons appertaining thereto, if any, funds for the payment of which have not been provided, or (ii) moneys in trust in the necessary amount for the payment or redemption thereof, and (iii) in case of such redemption, evidence that due notice of redemption has been given or has been provided for, to the satisfaction of the Trustee.

Bonds of any other series made the basis for the authentication and delivery of Bonds under this Section 4, together with all coupons appertaining thereto, if not then cancelled, shall be cancelled by the Trustee and shall not thereafter be made the basis for the authentication and delivery of any Bonds, the release of any property, the withdrawal, payment or application of any cash held by the Trustee or otherwise used under any provision of the Mortgage.

Section 5. From time to time and in the manner provided in this Section 5, Bonds of one or more series other than Series A may be executed by the Railroad Company and shall be authenticated by the Trustee and delivered to or upon

the written order of the Railroad Company, signed by its President or a Vice President, in an aggregate principal amount not exceeding the principal amount of any outstanding Prior Lien Bonds not theretofore Bonded which shall have been pledged and deposited with the Trustee uncancelled; provided, however, that no Prior Lien Bonds shall be made the basis for the authentication and delivery of Bonds under this Section 5 unless the deductions from Gross Expenditures required by clause (d) or clause (f) of the definition of Bondable Expenditures have theretofore been made in determining Bondable Expenditures which have become Bonded.

Bonds shall be authenticated and delivered under this Section 5 upon the delivery to the Trustee in each case of:

(a) An Application for the authentication of Bonds under this Section 5, stating the principal amount of Bonds the authentication of which is applied for;

(b) The documents specified in Section 8 of this Article III;

(c) An Officers' Certificate dated not more than 30 days prior to the delivery thereof which shall (i) describe and state the amount of the outstanding Prior Lien Bonds the pledge and deposit of which with the Trustee forms the basis of the Application, (ii) state that said Prior Lien Bonds are outstanding Prior Lien Bonds and have not theretofore been Bonded, and (iii) state that the deductions from Gross Expenditures required by either clause (d) or clause (f) of the definition of Bondable Expenditures have theretofore been made in determining Bondable Expenditures that have become Bonded;

(d) Said Prior Lien Bonds uncancelled which form the basis of the Application, together with all unmatured coupons and all unpaid matured coupons appertaining thereto, if any; and

(e) An Opinion of Counsel that all Prior Lien Bonds required to be pledged with the Trustee by clause (d)

above are subject to the lien of the Mortgage or will become subject to such lien upon delivery thereof or delivery of the instruments, if any, specified in said Opinion of Counsel; and that the Railroad Company has valid title to such Prior Lien Bonds and the right to own and pledge the same free from any other Lien.

Prior Lien Bonds made the basis for the authentication and delivery of Bonds under this Section 5, together with all coupons appertaining thereto, shall be held by the Trustee uncancelled and without extinguishment or impairment of the Prior Lien securing the same, except as effected as a matter of law by the acquisition thereof by the Railroad Company, and shall not thereafter be made the basis for the authentication and delivery of any Bonds, the release of any property, the withdrawal, payment or application of any cash held by the Trustee or otherwise used under any provision of the Mortgage; provided, however, that the Trustee, at the request of the Railroad Company, shall deliver any such Prior Lien Bonds to the trustee under the mortgage, deed of trust or other instrument under which the same may have been issued or which may secure the same for the purpose of obtaining the release, satisfaction and discharge of such mortgage, deed of trust or other instrument if it is furnished with an Opinion of Counsel that the property on which such mortgage, deed of trust or other instrument constitutes a lien is owned by the Railroad Company and is subject to the lien of the Mortgage, and that there is no other lien on such property, except Permitted Encumbrances, which is prior to the lien of the Mortgage.

Section 6. From time to time and in the manner provided in this Section 6, Bonds of one or more series other than Series A may be executed by the Railroad Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Railroad Company, signed by its Presi-

dent or a Vice President, for or on account of the pledge with the Trustee of any Railroad Subsidiary Bonds not theretofore Bonded, to the extent only of the principal amount of such Railroad Subsidiary Bonds.

Bonds shall be authenticated and delivered under this Section 6 upon the delivery to the Trustee in each case of:

(a) An Application for the authentication of Bonds under this Section 6, stating the principal amount of Bonds the authentication of which is applied for;

(b) The documents specified in Section 8 of this Article III;

(c) An Officers' Certificate dated not more than 30 days prior to the delivery thereof, which shall:

(1) Name the corporation the bonds of which have been or are to be pledged with the Trustee, and state that such corporation is a Railroad Subsidiary;

(2) State the amount of all Railroad Subsidiary Bonds of such Railroad Subsidiary then outstanding and the amount thereof which were outstanding as of the date such corporation shall have become a Railroad Subsidiary, and state separately the amount thereof theretofore pledged with the Trustee and the amount thereof proposed to be pledged concurrently with the Trustee;

(3) State the amount of all Railroad Subsidiary Bonds issued by such Railroad Subsidiary after the date it shall have become a Railroad Subsidiary and state separately the amount thereof theretofore pledged with the Trustee and the amount thereof proposed to be pledged concurrently with the Trustee;

(4) Furnish a computation showing that the Railroad Subsidiary Bonds referred to in the Application meet the requirements of the definition of Railroad Subsidiary Bonds in Article I; and

(5) State that the Railroad Subsidiary Bonds to the extent proposed to be made the basis for the issue of Bonds under the Application have not theretofore been Bonded;

(d) If the Railroad Subsidiary Bonds made the basis for the issue of Bonds under the Application were issued prior to, and outstanding upon, the date the corporation named in the Application became a Railroad Subsidiary, an Engineer's Certificate stating the fair value on said date of the then unretired physical property of such Railroad Subsidiary (other than Equipment then or at any previous time securing any Equipment Obligation of such Railroad Subsidiary);

(e) All Railroad Subsidiary Bonds proposed to be pledged with the Trustee under the Application; and all such instruments, if any, as in the Opinion of Counsel furnished pursuant to clause (g) below may be stated to be necessary or advisable to subject such securities to the lien of the Mortgage;

(f) Unless previously filed in connection with the pledge of bonds of such Railroad Subsidiary under the Mortgage, an agreement between the Railroad Company, the Trustee and such Railroad Subsidiary whereby the latter is obligated not to increase the amount of its other indebtedness secured by lien equal in rank to the lien of its bonds at any time pledged under the Mortgage, or to incur or assume any indebtedness secured by lien (other than Permitted Encumbrances and the prior right, charge, lien or title of its Equipment Obligations) ranking prior to the lien of its bonds at any time so pledged;

(g) An Opinion of Counsel that all Railroad Subsidiary Bonds of each Railroad Subsidiary required to be pledged with the Trustee by clause (e) above are subject to the lien of the Mortgage or will become subject to such lien upon delivery thereof or delivery of the instruments, if any, specified in said Opinion of Counsel; that the Railroad Company has valid title to such securities and the right to own and pledge the same,

free from any other lien; that such Railroad Subsidiary Bonds and the agreements required under clause (f) above have been duly authorized by all corporate authority required under the laws of the state of incorporation, the charter (or other document of organization) and the by-laws of the Railroad Subsidiary obligated thereby; that no authorization by any commission or governmental authority is required by law for the issue of such securities or for the valid ownership thereof by the Railroad Company or the pledge thereof as provided in this Section 6, except such authorizations as shall be specified in said Opinion of Counsel, and which shall be evidenced by copies of the orders or certificates so specified, appropriately certified; that the said Railroad Subsidiary Bonds of each such Railroad Subsidiary are valid obligations thereof and are secured by a valid general lien on all or substantially all of the physical property of such subsidiary, subject only to Permitted Encumbrances and the prior right, charge, lien or title of Equipment Obligations of such Subsidiary; and that each agreement referred to in clause (f) of this Section 6 is a valid and enforceable obligation of the Railroad Subsidiary making the same; and

(h) A Certified Resolution to the effect that each Railroad Subsidiary referred to in the Application owns one or more lines of railroad, bridges or railroad terminals connected directly, or by leasehold rights, trackage rights, or other similar operating rights, with the lines of railroad owned by the Railroad Company, which are necessary or useful in connection with the operation of the Railroad Company's system.

Section 7. From time to time and in the manner provided in this Section 7, Bonds of one or more series other than Series A, in an aggregate principal amount not exceeding $3,000,000 at any time outstanding, may be executed by the Railroad Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Railroad

Company, signed by its President or a Vice President, for or on account of the pledge with the Trustee of any Investment Securities not theretofore Bonded, but only in an aggregate principal amount not exceeding 75% of the expenditures made by the Railroad Company after the date of the execution and delivery of the Mortgage, as shown by its accounts, for the acquisition of such Securities.

If at any time or from time to time the proceeds from the sale of Investment Securities under Section 12 of Article X have been withdrawn or applied, pursuant to clause (c) or clause (d) of Section 7 of Article XI, then the aggregate principal amount of Bonds which shall have been authenticated, delivered and outstanding under this Section 7 shall be deemed to have been reduced by an amount equal to the principal amount of Bonds so surrendered or redeemed pursuant to said clause of Section 7 of Article XI.

Bonds shall be authenticated and delivered under this Section 7 upon delivery to the Trustee in each case of:

(a) An Application for the authentication of Bonds under this Section 7, stating the principal amount of Bonds the authentication of which is applied for.

(b) The documents specified in Section 8 of this Article III.

(c) An Officers' Certificate dated not more than 30 days prior to the delivery thereof, which shall:

(1) State the name of the corporation issuing such securities and state that such securities are Investment Securities as defined in the Mortgage;

(2) State the amount of the expenditures made by the Railroad Company as shown by its accounts for the acquisition of such Investment Securities; and a computation of the amount of Bonds to the authentication of which the Railroad Company shall

be entitled under the provisions of this Section 7; and

(3) State that the Investment Securities to the extent proposed to be made the basis for the issuance of Bonds under the application are not then Bonded.

(d) All Investment Securities proposed to be pledged with the Trustee under the Application; and all such instruments, if any, as in the Opinion of Counsel furnished pursuant to clause (e) below are stated to be necessary or advisable to subject such Investment Securities to the lien of the Mortgage.

(e) An Opinion of Counsel that all Investment Securities required to be pledged by the Trustee pursuant to clause (d) above are subject to the lien of the Mortgage or will become subject to such lien upon delivery thereof or upon the delivery of the instruments, if any, specified in said Opinion of Counsel; that the Railroad Company has valid title to such Investment Securities and the right to own and pledge the same, free from any other lien; that all Stocks included in such Investment Securities are validly issued and fully paid and nonassessable; that all Debt Securities included in such Investment Securities have been duly authorized by all corporate authority required under the laws of the state of incorporation, the charter (or other document of organization) and the by-laws of the corporation issuing the same; and that no authorization by any commission or governmental authority is required by law for the issuance of such securities or for the valid ownership thereof by the Railroad Company or the pledge thereof as provided in this Section 7, except such authorizations as shall be specified in such opinion and which shall be evidenced by appropriately certified copies of the orders or certificates so specified.

Section 8. Whenever applying for the authentication of any Bonds, other than Bonds of Series A, under the provi-

sions of this Article III, the Railroad Company shall cause to be delivered to the Trustee:

(a) A Certified Resolution authorizing the proposed issue of Bonds in a specified principal amount pursuant to a specified section or sections of this Article III, requesting the authentication and delivery thereof and either (i) stating that such Bonds are of a designated series previously authorized, or (ii) authorizing the execution and delivery of the supplemental indenture provided for in clause (b) of this Section 8, which Certified Resolution shall have been adopted by the affirmative action of not less than two-thirds of the whole Board of Directors;

(b) If such Bonds are to be of a series not previously authorized, a supplemental indenture duly creating the proposed series and specifying as provided in Section 3 of Article II the particular provisions of the Bonds of such series;

(c) A copy authenticated in a manner satisfactory to the Trustee of any orders or certificates of any commissions or public regulatory bodies or other governmental authorities shown by the Opinion of Counsel referred to in clause (d) of this Section 8 to be required by law for the issue of such Bonds;

(d) An Opinion of Counsel that

(1) no authorization or approval by any commission or public regulatory body or other governmental authority is required by law for the issue of such Bonds except such authorizations as are specified in such Opinion;

(2) the Railroad Company is entitled by law and by the terms of the Mortgage to the authentication and delivery of such Bonds;

(3) the authentication and delivery of such Bonds has been duly authorized by all requisite corporate action on the part of the Railroad Company;

(4) the Applications, certificates, orders and other documents delivered to the Trustee conform to the requirements of the Mortgage and constitute sufficient authority hereunder for the Trustee to authenticate and deliver such Bonds; and

(5) such Bonds when duly executed, authenticated and delivered and issued for consideration will constitute valid and outstanding obligations of the Railroad Company according to their terms and will be secured by the Mortgage in accordance with its terms; and

(e) An Officers' Certificate stating that no Event of Default has occurred and is continuing and that the Railroad Company is not in default in the payment of the principal of or interest on any Bonds.

ARTICLE IV

Redemption of Bonds

Section 1. The Railroad Company, at its option, may redeem the Bonds of Series A as a whole at any time or in part from time to time, at a redemption price equal to the principal amount thereof plus all accrued interest thereon to the date fixed for redemption and a premium equal to 5% of such principal amount decreased by ¼th of 1% for each 2 full calendar years elapsed after January 1, 1945, to and including January 1, 1985, but without premium if redeemed after January 1, 1985. Registered Bonds without coupons may be redeemed in portions amounting to $1,000 or multiples of $1,000, with interest and premium as aforesaid on the principal amount to be redeemed.

Upon the creation of any other series of Bonds the Railroad Company may reserve the right to redeem on any date prior to maturity all or from time to time any part of the Bonds of such series at such time or times and on such terms as shall be determined and specified in the supplemental indenture providing for the creation of such series and as shall be appropriately expressed in the Bonds of such series.

Except as otherwise provided in respect of Bonds of any particular series, the procedure for redemption of Bonds of all series which by their terms are redeemable shall be as hereinafter in this Article IV provided.

Section 2. In case the Railroad Company shall desire to exercise such right to redeem all or any part of the Bonds of a particular series in accordance with the right reserved so to do, it shall publish a notice of such redemption, once each week for 4 successive weeks in a Daily Newspaper in the Borough of Manhattan, City and State of New York, and in

a Daily Newspaper in the City of Chicago, State of Illinois, the first publication in each such newspaper to be not less than 60 days and not more than 90 days before the date fixed for redemption, except in the case of the redemption of all or any part of the Bonds of Series A on an interest payment date, in which case the first publication in each such newspaper shall be not less than 30 days and not more than 60 days before the date fixed for redemption. It shall not be necessary for all of such publications in any such city to be made in the same newspaper. Such notice shall specify the series of the Bonds to be redeemed, the date fixed for redemption and the redemption price thereof, and shall state that payment of such redemption price will be made at the office or agency or at the offices or agencies of the Railroad Company at which the principal of such Bonds is payable, and that on and after said date interest thereon will cease to accrue. A copy of such notice shall be mailed by the Railroad Company at least 30 days prior to the date fixed for redemption to the Trustee and to the registered owners of registered Bonds without coupons and of coupon Bonds registered as to principal, so to be redeemed, at their last addresses as they shall appear upon the bond registry books, but neither failure to give such notice by mail, nor any defect therein, shall affect the validity of the proceedings for the redemption of the Bonds.

If the Railroad Company shall elect to redeem less than all of the Bonds of any series then outstanding, it shall give the Trustee adequate notice in advance of the aggregate principal amount of the Bonds of such series to be redeemed, and thereupon the Trustee shall draw by lot, in such manner as it shall deem appropriate (and for that purpose the Railroad Company will, upon request of the Trustee, close or cause to to be closed for a period not exceeding 20 days the bond

registry books), from the Outstanding Bonds, the distinguishing numbers of a principal amount of Bonds equal to such aggregate principal amount of bonds to be redeemed. In any drawing by lot under this Section 2, each registered Bond without coupons shall be represented by a separate number for each $1000 of its principal amount. The Trustee, after such drawing, shall promptly notify the Railroad Company in writing of the serial numbers of the Bonds so drawn, and in the case of any registered Bond without coupons to be redeemed in part only, the portion of the principal amount thereof to be redeemed. The notice of redemption shall specify the numbers of coupon Bonds and registered Bonds without coupons so drawn, and in case of any registered Bond without coupons which is to be redeemed in part only (by reason of the fact that distinguishing numbers representing only part of the principal amount thereof shall have been so drawn), the notice shall specify the serial number of such Bond and the portion of the principal amount thereof to be redeemed and shall state that on and after the date fixed for the redemption, upon surrender of such registered Bond, new Bonds of the same series and maturity in principal amount equal to the unredeemed portion of such registered Bond will be issued without expense to the holder of such registered Bond.

In case less than all of the Bonds of Series A are to be called for redemption, there shall not be included in the drawing provided for in this Section 2 the distinguishing numbers of any Bonds of Series A then held by the Exchange Agent under the Exchange Agency Agreement dated December 1, 1945, entered into between the Railroad Company and The First National Bank of Chicago, as Exchange Agent under the Plan, or held by the Bond Scrip Agent under the Bond Scrip Agreement dated December 1, 1945, entered into between the Railroad Company and The First National Bank of Chicago, as

Bond Scrip Agent. The Railroad Company, at the time it shall give notice to the Trustee of its election to redeem less than all of the Outstanding Bonds of any series, to evidence the ownership of Bonds of such series owned by the Railroad Company, shall deliver to the Trustee an Officers' Certificate setting forth the serial numbers of any Bonds of such series owned by the Railroad Company, and in case of the redemption of Bonds of Series A shall also deliver to the Trustee a Certificate by a Vice President of The First National Bank of Chicago, or its successor as such Exchange Agent, stating the serial numbers of the Bonds of Series A remaining undistributed under the Plan, and a certificate signed by a Vice President of The First National Bank of Chicago, or its successor as such Bond Scrip Agent, stating the serial numbers of the Bonds of Series A then held by it as such Bond Scrip Agent under said Bond Scrip Agreement. If any certificate of such Exchange Agent or Bond Scrip Agent shall show that such Agent no longer holds any Bonds of Series A, a certificate from such Agent under the foregoing provision shall not thereafter be required.

Section 3. If publication of notice of redemption shall have been completed as above provided, the Bonds or portions of Bonds specified in such notice shall become due and payable on the date and at the place stated in such notice, at the applicable redemption price, and on and after such date (unless the Railroad Company shall fail to deposit with the Trustee, as hereinafter provided, funds sufficient for the payment of such Bonds at the redemption price) interest on the Bonds or portions of Bonds so called for redemption shall cease to accrue, and the coupons for such interest shall be void. On presentation and surrender of such Bonds on or after such date at any place or places of payment in said notice specified, accompanied by appropriate transfer powers

in blank in the case of coupon Bonds registered as to principal and registered Bonds without coupons, and with all coupons, if any, thereto appertaining and maturing on or after such date, they shall be paid and redeemed by the Railroad Company at the applicable redemption price. If the Railroad Company, having completed publication of notice of redemption as required, fails so to deposit, or to direct the application from cash so available and held by the Trustee, of a sum of money equal to such redemption price, the Bonds so called for redemption, nevertheless, shall become due and payable on the date fixed for redemption.

Upon presentation of any registered Bond without coupons which is redeemed in part only, the Railroad Company shall execute and the Trustee shall authenticate and deliver to the registered holder thereof, without expense to such holder, a new registered Bond or Bonds without coupons or new coupon Bonds of the same series and maturity in principal amount equal to the unredeemed portion of the Bond so presented.

Section 4. If the Railroad Company shall deposit in trust with the Trustee on, or within 90 days prior to, the date fixed for redemption an amount in cash sufficient to redeem all Bonds, or portions thereof, then outstanding, called or to be called for redemption, and shall furnish to the Trustee proof satisfactory to it that notice of redemption of such Bonds has been published as herein provided, or provision satisfactory to the Trustee shall have been made for giving such notice, then the Bonds or portions of Bonds to be redeemed shall no longer entitle the holders thereof to any lien under the Mortgage, save and except the right to receive the redemption price therefor.

All moneys deposited with the Trustee for the redemption of Bonds shall be held in trust for the benefit of the

holders of such Bonds, but subject to the provisions of Section 4 of Article XVIII.

Section 5. If the date fixed for redemption be a legal holiday or a day on which banking institutions are authorized by law to be closed, then payment of the redemption price may be made on the next succeeding day that is not a legal holiday or a day on which banking institutions are authorized by law to be closed, with the same force and effect as if made on the nominal date fixed for redemption, and no interest shall accrue for the period after the date fixed for redemption.

ARTICLE V

Available Net Income

Section 1. The Railroad Company covenants that Available Net Income for each calendar year, beginning with the calendar year 1944, and continuing as long as any Bonds are outstanding under the Mortgage, shall be determined and applied as provided in this Section 1, subject to the provisions of Section 6 of this Article V.

The Available Net Income for the calendar year 1944 and **for each calendar year thereafter shall be determined from the accounts of the Railroad Company and its Railroad Subsidiaries** not later than March 15 of the following calendar year; and Available Net Income for each year **shall be** applied, to the extent that the same shall suffice therefor, **during the succeeding calendar year for the following purposes and in the following order:**

(a) To the payment, *first* of the current annual instalment, and *next* of any deficit in the annual instalment for the next preceding (but no other) calendar year, required to be paid into the Additions and Betterments Fund out of Available Net Income pursuant to the provisions of clause (a) of Section 1 of Article VI;

(b) To the reimbursement, *first* of the Reserve and Retirement Fund to the extent that the Fund has not previously been reimbursed for expenditures from the Fund in payment of fixed charges under Section 3 of Article VII, and *next* of the treasury of the Railroad Company for the amount expended in the payment of fixed charges for the next preceding calendar year, if and to the extent that such fixed charges were in excess of the consolidated income available for fixed charges of the Railroad Company and its Railroad Subsidiaries for such preceding calendar year;

(c) To the payment, *first* of any amounts currently required to be paid into any Equipment Sinking Fund established for the retirement of any Bonds pursuant to the requirements of Section 3 of Article VIII, and *next* into any sinking fund established for the retirement of any General Mortgage Bonds issued upon the basis of the acquisition of Equipment pursuant to the requirements of Section 2 of Article VIII of the General Mortgage, to the extent that the Reserve and Retirement Fund applicable for such purposes under clause (a) of Section 2 of Article VII shall be inadequate therefor;

(d) To the payment of the amount currently required to be paid into the Series A Sinking Fund pursuant to the requirements of Section 1 of Article VIII or into any sinking fund equivalent in dollar amount that may be established for the retirement of Bonds of any series issued for the purpose of refunding the Bonds of Series A;

(e) To the payment of the currently payable Contingent Interest on all outstanding General Mortgage Bonds of Series A (or General Mortgage Bonds of any series issued for the purpose of refunding such General Mortgage Bonds of Series A) and, from and after January 1, 1946, the currently payable Contingent Interest on all outstanding Modified Terre Haute Bonds, not then owned by the Railroad Company, and the unpaid accumulations of interest that shall have accrued thereon, subject to the provisions of Section 2 of this Article V;

(f) To the payment of the additional amount, if any, currently to be paid into the Additions and Betterments Fund out of Available Net Income pursuant to the provisions of clause (b) of Section 1 of Article VI;

(g) To the payment of the currently payable Contingent Interest on all outstanding General Mortgage Bonds of Series B (or General Mortgage Bonds of any series issued for the purpose of refunding such General Mortgage Bonds of Series B), not then owned by the Railroad Company, and the unpaid accumulations of in-

terest that shall have accrued thereon, including General Mortgage Bonds of Series B which have been converted but upon which interest is payable under Section 4 of Article XIII of the General Mortgage;

(h) To the payment of the currently payable Contingent Interest on all outstanding General Mortgage Bonds of series other than Series A and Series B (or General Mortgage Bonds of any series issued for the purpose of refunding General Mortgage Bonds of Series A or Series B or both), not then owned by the Railroad Company, and the unpaid accumulations of interest that shall have accrued thereon, with such priority among the bonds of such other series as shall be provided in the bonds of such series, subject to the provisions of Section 3 of this Article V;

(i) To the payment, *first* of the amounts currently required to be paid into the Sinking Fund established by Article VIII of the General Mortgage for the retirement of General Mortgage Bonds of Series A and Series B (or General Mortgage Bonds of any series issued for the purpose of refunding General Mortgage Bonds of either or both such series), and *next* of any amounts currently required to be paid into any sinking fund established by the General Mortgage for the retirement of any other General Mortgage Bonds, with such priority as between sinking funds for the several other series as may be provided in the General Mortgage or any indenture supplemental thereto;

(j) To the payment of any amounts currently required to be paid into the Contingent Sinking Fund established pursuant to the requirements of Section 2 of Article VIII; and

(k) Any remaining Available Net Income, after deducting therefrom such amounts as shall have been charged to operating expenses and added to such Available Net Income representing the service value of non-depreciable roadway property retired and not replaced, may be applied as the Board of Directors may determine

to the payment of dividends on the several classes of capital stock of the Railroad Company in the order of their preferences, or to any other proper corporate purposes, subject to the provisions of Section 4 of Article V of the General Mortgage.

No Contingent Interest shall be required to be paid under any provision of this Section 1 if the amount so to be paid would be less than ¼ of 1% on each $100 of the principal amount of any Contingent Interest bearing obligation, and all payments of Contingent Interest shall be made in multiples of one cent for each $100 of the principal amount of such obligation. Any excess available for interest not paid because of this provision shall be retained by the Railroad Company and added to the amount available for such interest in the succeeding income period or periods.

Section 2. If the amount of Available Net Income applicable to the payment of the currently payable Contingent Interest on all outstanding General Mortgage Bonds of Series A and on all outstanding Modified Terre Haute Bonds is insufficient for the payment of the full Contingent Interest at the rate of 4½% on the General Mortgage Bonds of Series A and at the rate of 1½% on the Modified Terre Haute Bonds, the amount of Available Net Income applicable to such payment under clause (e) of Section 1 of this Article V shall be apportioned between the General Mortgage Bonds of Series A and the Modified Terre Haute Bonds, so that there shall be paid to the holders of the Modified Terre Haute Bonds an amount that bears the same ratio to the full contingent interest of 1½% on the Modified Terre Haute Bonds as the amount paid to the holders of the General Mortgage Bonds of Series A bears to the full Contingent Interest of 4½% on the General Mortgage Bonds of Series A. Payments

on the unpaid accumulations of interest that shall have accrued on the General Mortgage Bonds of Series A and the Modified Terre Haute Bonds shall be similarly apportioned.

Section 3. If General Mortgage Bonds of series subsequent to Series A and Series B shall be issued and the bonds of such subsequent series shall bear interest at different rates but without priority as to payment among such series, and if the amount of Available Net Income applicable to the payment of the currently payable Contingent Interest on all of the bonds of such subsequent series is insufficient for the payment thereof in full, including any then unpaid accumulations of interest that shall have accrued thereon, the amount of such Available Net Income applicable to such payment under clause (h) of Section 1 of this Article V shall be apportioned among the bonds of such subsequent series in accordance with the supplemental indentures creating such series.

Section 4. If the obligation of the Railroad Company on the Bonds, General Mortgage Bonds or Modified Terre Haute Bonds shall cease to be an obligation of the Railroad Company, either through payment or satisfaction in full, or if for any other reason the indenture securing or providing for such obligation has been terminated and released, whether by refunding or otherwise, the requirement to apply Available Net Income for such obligation in the order provided in Section 1 of this Article V shall cease and the amount of Available Net Income otherwise required to be applied thereto, after meeting all remaining requirements, if any, of like priority, shall be applied thereafter to the remaining purposes in the order of priority specified.

Section 5. Concurrently with the execution and delivery of the Mortgage, the Railroad Company has filed with the

Trustee a report, signed by its President and Comptroller, showing in reasonable detail the amount of Available Net Income for the calendar year 1944 and the applications thereof that have been made by the Railroad Company in accordance with the provisions of Section 1 of this Article V.

On or before March 15 of each year, beginning with year 1946, the Railroad Company shall file with the Trustee a Certified Resolution determining the Available Net Income for the preceding calendar year, and a report signed by the President or a Vice President, and by the Comptroller or Assistant Comptroller, of the Railroad Company, showing the calculations in reasonable detail of the amount of Available Net Income for the preceding calendar year and the payments made by the Railroad Company during the preceding calendar year pursuant to the provisions of Section 1 of this Article V.

In determining Available Net Income for any year the members of the Board of Directors may rely upon and shall be fully protected in relying upon any statement signed by the Chief Accounting Officer as to any facts set forth therein and upon advice of counsel as to the meaning and application of any provision of the Mortgage.

If the holders of not less than 25% in principal amount of the Outstanding Bonds shall have questioned the correctness of any such report by a notice in writing addressed to the Trustee and signed by such holders, the Trustee shall request the Railroad Company to have the accounts of the Railroad Company for the year in question (and for prior or subsequent years, so far as necessary to check the correctness of such report) audited so far as necessary to check the correctness of such report, at the expense of the Railroad Company, by a firm of certified public accountants selected by the Board of Directors and approved by the Trustee, unless an audit

shall have theretofore been made or is then being made pursuant to similar provisions in another indenture securing obligations of the Railroad Company or pursuant to the voluntary action of the Railroad Company. The Railroad Company agrees that it will comply with any such request for an audit. Any such audit shall, promptly after its completion, be filed with the Trustee and shall be open to inspection at all reasonable times by the holders of the Bonds.

The Railroad Company, in the discretion of the Board of Directors, may at any time pay any Contingent Interest which has accumulated on the General Mortgage Bonds or Modified Terre Haute Bonds, or both, out of any funds lawfully available therefor although there be no Available Net Income applicable thereto, provided (i) such payments are made in the order of priority provided in this Article V, (ii) all payments having a priority senior thereto out of Available Net Income for the preceding calendar year have been paid in full, and (iii) the Board of Directors shall have determined that the funds to be used for such payment of contingent interest are not required for Additions and Betterments necessary or desirable for the safe operation of the properties of the Railroad Company or for the maintenance of the usual standards of efficiency or economy of operation of such properties.

Section 6. The provisions of this Article V are hereby made expressly subject to each and all of the remedies of the Trustee or the Bondholders as set forth in Article XVI hereof and the operation of the provisions of this Article V shall be suspended during the continuance of either of the Events of Default specified in clause (d) or clause (e) of Section 2 of Article XVI.

ARTICLE VI

Additions and Betterments Fund

Section 1. The Railroad Company covenants that it will create and maintain a fund to be known as the "Additions and Betterments Fund" and that on or before April 1 in each year, beginning with the year 1946, and continuing as long as any Bonds are outstanding under the Mortgage, but subject to the provisions of Section 4 of this Article VI, it will pay into the Additions and Betterments Fund in cash the sum of $2,500,000 plus such additional amount, if any, as the Board of Directors shall determine and authorize, subject, however, to the following:

"(a) The payment of $2,500,000 in any year shall be made only from the following sources and in the following order, and to the extent that such sources are adequate therefor, respectively: *First*, from funds made available from credits to the reserves for depreciation and amortization of roadway and structures for the next preceding calendar year less the service losses charged to such reserves for such year on account of depreciable property retired and replaced, and *Second*, from Available Net Income for such next preceding calendar year applicable therefor in accordance with the provisions of clause (a) of Section 1 of Article V; provided, however, that if such sources are not adequate therefor, an amount not exceeding the deficiency may, in the discretion of the Board of Directors, be paid into the Additions and Betterments Fund from such sources, and in the same order, on or before April 1 in the next succeeding calendar year (but not thereafter), after provision has first been made for the then current payment pursuant to this clause (a).

(b) The additional amount, if any, payable into the Additions and Betterments Fund in any year shall be

paid from the following sources and in the following order, and to the extent that such sources are adequate therefor, respectively: *First*, from the remaining funds made available from the credits to the reserves for depreciation and amortization of roadway and structures for the next preceding calendar year, less the service losses charged to such reserves for such year on account of depreciable property retired and replaced, and *Second*, from Available Net Income for the next preceding calendar year applicable therefor in accordance with the provisions of clause (f) of Section 1 of Article V.

(c) The aggregate of the amounts paid into the Additions and Betterments Fund in any year in accordance with this Section 1 shall not exceed $5,000,000 or an amount equal to 4% of the railway operating revenues of the Railroad Company for the next preceding calendar year under the Uniform System of Accounts, whichever is greater, less the aggregate expenditures out of the Reserve and Retirement Fund during the current calendar year for Gross Expenditures pursuant to the provisions of clauses (d) and (f) of Section 2 of Article VII.

(d) If the Railroad Company shall charge to operating expenses in any calendar year the Cost of any Additions and Betterments which would have been properly chargeable to Capital Accounts under the Uniform System of Accounts in effect on June 4, 1940, the amount payable into the Additions and Betterments Fund in the next succeeding calendar year shall be reduced by the amount of such charges.

SECTION 2. All funds which are paid into the Additions and Betterments Fund shall be segregated from the general funds of the Railroad Company, shall be held by the Railroad Company in a separate bank account or invested in direct or guaranteed obligations of the United States of America, and shall be expended to provide for, or to reimburse the treasury of the Railroad Company for, all or any part of the

Cost of Additions and Betterments payable in cash to the extent not theretofore Bonded or Otherwise Financed.

Any balance remaining in the Additions and Betterments Fund at the close of any calendar year, after the final determination of the amount to be paid into such Fund during such year and the amount expended or appropriated in respect of expenditures from the Fund during such calendar year, shall be paid into the Reserve and Retirement Fund on or before April 1 of the next succeeding calendar year.

SECTION 3. The Railroad Company covenants that on or before April 1 in each year, beginning with the year 1947, it will deliver to the Trustee a report signed as in the case of an Officers' Certificate, which report shall state separately with respect to the preceding calendar year (i) the amounts of all payments made into the Additions and Betterments Fund as required or permitted under the provisions of this Article VI and a computation showing the determination of such amounts in accordance with the provisions of Section 1 of this Article VI; (ii) the amounts of all expenditures from and unexpended appropriations of the Additions and Betterments Fund made pursuant to the provisions of Section 2 of this Article VI, together with a description thereof in reasonable detail; (iii) the balance in the Additions and Betterments Fund at the close of such calendar year required to be paid into the Reserve and Retirement Fund by the provisions of Section 2 of this Article VI; (iv) the amounts, if any, remaining unexpended at the close of such calendar year out of amounts appropriated from the Additions and Betterments Fund for prior years; and (v) that no part of the Cost of Additions and Betterments payable in cash with respect to which expenditures have been made or the treasury of the Railroad Company reimbursed during such calendar year has theretofore been Bonded or Otherwise Financed.

The Railroad Company covenants that on or before April 1, 1946, it will deliver to the Trustee the report that would have been deliverable to the Trustee on that date with respect to the calendar year 1945 if the provisions of this Article VI and the Additions and Betterments Fund had been operative from January 1, 1944, and there had been paid into the Fund on or before April 1, 1945, the sum of $2,500,000 plus such additional amount, if any, as the Board of Directors shall determine prior to the delivery of such report.

SECTION 4. The provisions of this Article VI are hereby made expressly subject to each and all of the remedies of the Trustee or the Bondholders as set forth in Article XVI hereof and the operation of the provisions of this Article VI shall be suspended during the continuance of either of the Events of Default specified in clause (d) or clause (e) of Section 2 of Article XVI.

ARTICLE VII

RESERVE AND RETIREMENT FUND

SECTION 1. The Railroad Company covenants that it will create and maintain a fund to be known as the "Reserve and Retirement Fund," and that on or before April 1 of each year, beginning with the year 1946, and continuing so long as any Bonds are outstanding under the Mortgage, subject to the provisions of Section 5 of this Article VII, it will pay into the Reserve and Retirement Fund in cash:

(a) Such amounts as the Railroad Company shall charge to operating expenses and to income accounts in respect of the next preceding calendar year for depreciation and amortization of Equipment, which shall be not less than the amounts required therefor by the Interstate Commerce Commission or other public regulatory body having jurisdiction or, if no specific amount or rate of depreciation or amortization of Equipment is so required, then such reasonable amount therefor as shall be established by the Board of Directors within the maximum amount or rate permitted by such Commission or other public regulatory body; and

(b) Such amounts as shall be required to be paid into the Reserve and Retirement Fund out of the balance remaining in the Additions and Betterments Fund at the close of such preceding calendar year pursuant to the provisions of Section 2 of Article VI.

Payments into the Reserve and Retirement Fund pursuant to clause (a) of this Section 1 may be made on a monthly basis or otherwise, provided that all required payments into the Fund relating to any calendar year shall have been completed on or before April 1 of the succeeding calendar year.

SECTION 2. All funds paid into the Reserve and Retirement Fund shall be segregated from the general funds of the Railroad Company, shall be held by the Railroad Company in a separate bank account or invested in direct or guaranteed obligations of the United States of America, and shall be expended for, or to reimburse the treasury of the Railroad Company for, the following purposes and in the following order, subject to the provisions of Section 3 of this Article VII:

(a) To pay, *first* the principal of Equipment Obligations as they severally mature, *next* the current annual instalments required to be paid into Equipment Sinking Funds established for the retirement of Bonds pursuant to the provisions of Section 3 of Article VIII, and *next* the current annual instalments required to be paid into any sinking funds established for the retirement of General Mortgage Bonds issued upon the basis of the acquisition of Equipment pursuant to the requirements of the General Mortgage;

(b) To pay in cash all or any part of the cost of acquiring or constructing new Equipment to the extent not financed by Equipment Obligations;

(c) To pay all or any part of the cost of replacing Equipment that has become worn-out, lost, destroyed or rendered unfit for use and that is required to be replaced by the terms of an Equipment Obligation pertaining thereto;

(d) To provide for, or to reimburse the Railroad Company for, all or any part of the Gross Expenditures representing the replacement of physical property retired;

(e) To provide for, or to reimburse the Railroad Company for, the cost of additions and betterments to Equipment required to maintain the operating efficiency of the Railroad Company's railway system unimpaired,

but only to the extent that the expenditures therefor are properly chargeable to Capital Accounts;

(f) To provide for, or to reimburse the Railroad Company for, any other Gross Expenditures;

(g) The balance, if any, remaining in the Reserve and Retirement Fund at the close of any calendar year, after the final determination of the amount to be paid into such Fund in respect of such calendar year and the amount expended or appropriated therefrom in respect of expenditures during such calendar year, may in the discretion of the Board of Directors, and shall if and to the extent such balance exceeds $5,000,000, be deposited with the Trustee on or before March 1 of the next succeeding calendar year as and for an addition to the Contingent Sinking Fund to be applied by the Trustee to the retirement of Outstanding Bonds in accordance with the provisions of Section 2 of Article VIII;

provided, however, that (i) the Reserve and Retirement Fund shall not be expended for any of the purposes described in clauses (b), (c), (d) and (e) unless the amount then in the Fund, plus the amounts estimated to be payable into the Fund in respect of the remainder of the then current calendar year, exceeds the aggregate of the amounts required to be paid out of the Fund in respect of the remainder of such year for the purposes described in clause (a), and then only to the extent of such excess; (ii) the Reserve and Retirement Fund shall not be expended for the purpose described in clause (f) unless the amount of such excess is more than $5,000,000, and then only to the extent of such excess over $5,000,000; (iii) the Reserve and Retirement Fund shall not be expended for any of the purposes described in clauses (b), (c), (d), (e) and (f) except to the extent not theretofore Bonded or Otherwise Financed; and (iv) all payments into the Reserve and Retirement Fund on account of the amortization of Equipment in

accordance with the provisions of Section 124 of the Internal Revenue Code, as amended by the Revenue Act of 1942 and the Tax Adjustment Act of 1945, shall be expended only for the payments as they mature of the principal of Equipment Obligations through which the acquisitions of such Equipment were financed and shall not be included in any computation of excess or balance in the Fund for any of the purposes described in clauses (b), (c), (d), (e), (f), and (g).

SECTION 3. In any calendar year and in the discretion of the Board of Directors, expenditures may be made from the Reserve and Retirement Fund to pay the fixed interest or any fixed sinking fund requirements of the Railroad Company on the Outstanding Bonds or on any other obligations of the Railroad Company secured by mortgage lien on the properties of the Railroad Company senior to or on a parity with the lien of the Mortgage, if and to the extent that the estimated consolidated income available for fixed charges of the Railroad Company and its Railroad Subsidiaries for such year under the Uniform System of Accounts will be insufficient therefor, in the opinion of the Board of Directors.

In the event that consolidated income available for fixed charges of the Railroad Company and its Railroad Subsidiaries under the Uniform System of Accounts, as finally determined for the year in question, was sufficient to have covered the expenditures, if any, from the Reserve and Retirement Fund under this Section 3, the Railroad Company covenants to reimburse the Reserve and Retirement Fund immediately to the extent that such income before fixed charges was sufficient to cover such expenditures.

In the event of any expenditures from the Reserve and Retirement Fund pursuant to this Section 3, then, after such expenditures, no contingent interest on the General Mortgage Bonds and no dividends on any class of capital stock of

the Railroad Company shall be paid until there has been restored to the Reserve and Retirement Fund by way of reimbursement an amount equal to all expenditures from the Fund made pursuant to this Section 3.

Prior to making any expenditure from the Reserve and Retirement Fund under this Section 3, there shall be filed with the Trustee (i) a Certified Resolution evidencing the determination of the Board of Directors to use the Reserve and Retirement Fund for the purposes therein specified and stating that in the opinion of the Board of Directors the consolidated income available for fixed charges of the Railroad Company and its Railroad Subsidiaries for such year will be insufficient to cover the expenditures by the amount of the funds to be so used out of the Reserve and Retirement Fund, and (ii) an Officers' Certificate specifying the total estimated fixed interest and fixed sinking fund requirements of the Railroad Company for the calendar year then current and the estimated amount of consolidated income available for fixed charges for such year.

Within 10 days after reimbursement of the Reserve and Retirement Fund by the restoration thereto of the amount of such expenditures under this Section 3, there shall be filed with the Trustee an Officers' Certificate stating the amount of such reimbursement, and the source from which the funds effecting such reimbursement were derived.

SECTION 4. The Railroad Company covenants that on or before April 1 of each year, beginning with the year 1946, it will deliver to the Trustee a report signed as in the case of an Officers' Certificate, which report shall state separately with respect to the preceding calendar year (i) the amounts of all payments into the Reserve and Retirement Fund required or permitted under the provisions of Section 1 of

this Article VII and a computation showing the determination of such amounts in accordance with the provisions of said Section 1; (ii) the amounts of all expenditures from and unexpended appropriations of the Reserve and Retirement Fund made pursuant to the provisions of Sections 2 and 3 of this Article VII, together with a description thereof in reasonable detail; (iii) the amounts of any reimbursements of the Reserve and Retirement Fund pursuant to the provisions of Section 3 of this Article VII; and (iv) the balance in the Reserve and Retirement Fund at the close of such calendar year; and if any expenditures have been made from the Reserve and Retirement Fund for any of the purposes described in clauses (b), (c), (d), (e) and (f) of Section 2 of this Article VII, a statement that such expenditures were not theretofore Bonded or Otherwise Financed.

The Railroad Company, concurrently with the execution and delivery of the Mortgage, has delivered to the Trustee the report that would have been deliverable to the Trustee on April 1, 1945, pursuant to this Section 4, if the provisions of this Article VII and the Reserve and Retirement Fund had been operative from January 1, 1944, which report states that there was no unexpended balance in said Fund on December 1, 1945.

Section 5. The provisions of this Article VII are hereby made expressly subject to each and all of the remedies of the Trustee or the Bondholders as set forth in Article XVI hereof and the operation of the provisions of this Article VII shall be suspended during the continuance of either of the Events of Default specified in clause (d) or clause (e) of Section 2 of Article XVI.

ARTICLE VIII

Sinking Funds

Section 1. As and for a Series A Sinking Fund for the retirement of Bonds of Series A, the Railroad Company

(a) has deposited with the Trustee, concurrently with the execution and delivery of the Mortgage, the sum of $148,787.75, being the amount which it would have been required to deposit with the Trustee under clause (b) of this Section 1 out of Available Net Income for the calendar year 1944 if the Mortgage and the provisions of said clause (b) had been operative from January 1, 1944;

(b) covenants that on or before April 1 of each year, beginning with the year 1946, it will deposit with the Trustee an amount equal to ¼ of 1% of the aggregate principal amount of Bonds of Series A originally issued hereunder, plus an amount equal to the interest that would have accrued for the preceding calendar year on such Bonds of Series A as previously shall have been acquired through the operation of the Series A Sinking Fund, but only to the extent that such amount may be applicable for such purposes out of Available Net Income for the preceding calendar year under clause (d) of Section 1 of Article V.

In lieu of depositing moneys with the Trustee to be held and applied as part of the Series A Sinking Fund, the Railroad Company may reacquire and deliver to the Trustee Bonds of Series A, bearing all unmatured coupons appertaining thereto, at the lower of the cost of reacquisition thereof (less any accrued interest paid on such reacquisition) or at the redemption price thereof (exclusive of accrued interest) on April 1 of the calendar year in which such delivery is made. Any such Bonds of Series A so delivered to the Trustee shall be accompanied by an Officers' Certificate stating (i) that such Bonds have been duly issued and outstanding and have been reacquired by the Railroad Company, (ii) the price or prices at which they were reacquired, (iii) that none of such Bonds has theretofore been Bonded, and (iv) that such Bonds are delivered to the Trustee in lieu of moneys required to be deposited in the Series A Sinking Fund.

Moneys which are deposited with the Trustee as and for the Series A Sinking Fund, as required by the provisions of this Section 1, shall be applied by the Trustee, so long as no Event of Default has occurred and is continuing, to the purchase or redemption of Outstanding Bonds of Series A in accordance with the provisions of this Section 1.

The Trustee may purchase such Bonds of Series A either in the open market at the lowest price or prices at which, in its sole discretion, it shall deem such Bonds reasonably obtainable; or, if the Trustee, in its sole discretion, shall deem it advisable, it may advertise for proposals to sell such Bonds to it, reserving the right to reject any or all such proposals in whole or in part, and may purchase such Bonds at the lowest price or prices asked in such proposals if it deems such purchases advisable; but no such Bonds shall be purchased in the open market or in response to proposals, as aforesaid, at a price, including accrued interest, in excess of the amount, inclusive of premium and accrued interest, which would be payable in case of redemption thereof at the earliest applicable redemption date.

Whenever the balance of moneys remaining on deposit in the Series A Sinking Fund on November 1 of any year equals or exceeds $50,000, the Trustee shall apply such balance to the redemption of Outstanding Bonds of Series A, on the next interest payment date applicable to Bonds of Series A, at the redemption price specified in Section 1 of

Article IV. The Trustee shall give notice of such redemption in the name of the Railroad Company in the manner and in accordance with the applicable provisions of Article IV; and the Trustee is hereby appointed the agent of the Railroad Company for such purpose. The Railroad Company covenants that whenever any redemption of Bonds of Series A shall be required under the provisions of this Section 1, it will at the request of the Trustee take all action necessary, and authorize the Trustee to take all action necessary, to redeem such Bonds on the date specified by the Trustee.

The Railroad Company covenants that in connection with any purchase or redemption of Bonds of Series A under this Section 1 it will deposit with the Trustee, upon request of the Trustee in the case of purchase or prior to the date fixed for redemption in the case of redemption, in addition to funds theretofore deposited in the Series A Sinking Fund, moneys sufficient to pay, in the case of purchase, the excess, if any, of the purchase price, including accrued interest, over the principal amount thereof, and, in the case of redemption, all premiums and all accrued and unpaid interest thereon to the date fixed for redemption.

All advertising and publishing costs and other expenses incurred in the purchase or redemption of such Bonds of Series A, and all amounts paid on account of interest on the purchase of such Bonds, shall be paid by the Railroad Company, or, if paid by the Trustee, shall be repaid by the Railroad Company to the Trustee upon demand.

All Bonds of Series A purchased or redeemed out of the Series A Sinking Fund, and all Bonds of Series A delivered by the Railroad Company to the Trustee in lieu of depositing moneys in the Series A Sinking Fund, shall be cancelled and shall not be made the basis for the authentication and

delivery of any Bonds or the withdrawal, payment or application of any cash under any provision of the Mortgage.

Section 2. As and for a Contingent Sinking Fund for the retirement of Outstanding Bonds, the Railroad Company covenants that, whenever on April 1 of any year, beginning with the year 1946, as shown by an Officers' Certificate delivered to the Trustee on or before April 1 of each year, the aggregate principal amount of Outstanding Bonds, plus all other funded debt of the Railroad Company bearing fixed interest, exceeds either (a) 35% of the total capitalization of the Railroad Company, determined as hereinafter provided, or (b) 55% of such total capitalization less the principal amount of the then outstanding funded debt of the Railroad Company bearing contingent interest, it will deposit with the Trustee on or before the succeeding May 1 an amount equal to 50% of the Available Net Income for the preceding calendar year remaining after the application of such Available Net Income in the order of priority specified in clauses (a) through (i) of Section 1 of Article V.

For the purposes of this Section 2, funded debt of the Railroad Company as of any particular time shall be deemed to include (i) all Bonds and all General Mortgage Bonds, except such as shall have been cancelled, paid or redeemed or for the cancellation, payment or redemption of which funds in the necessary amount have been deposited in trust with the Trustee or with the trustee of the General Mortgage, (ii) all Equipment Obligations, (iii) all Prior Lien Bonds, (iv) all debts of others guaranteed by the Railroad Company as to principal or interest or both (except debts of a terminal or bridge company, and in case of joint and several guarantees with others, there shall be included only the Railroad Company's proportionate share of the total obligation under such guaranty), and (v) an amount equal

to the capitalized value, at the rate of 5% per annum, of fixed rents payable by the Railroad Company for leased roads other than terminal and bridge properties; but funded debt of the Railroad Company shall not be deemed to include (vi) obligations (other than mortgage bonds or Equipment Obligations) maturing not more than 2 years after their date, or (vii) obligations of longer maturity secured by pledge of bonds having a lien on the property of the Railroad Company, except to the extent, if any, by which the principal amount of such obligations exceeds the principal amount of such bonds so pledged.

There shall be included in determining the total capitalization of the Railroad Company as of any particular time only (i) the principal amount of obligations constituting funded debt of the Railroad Company, (ii) the par value of the outstanding capital stock of the Railroad Company having a par value, (iii) the stated value of the outstanding capital stock of the Railroad Company, computed at $100 per share for the shares issued under the Plan, and (iv) the stated value of other stocks without par value, as shown by the accounts of the Railroad Company, not exceeding the amount of consideration actually received for such other stock, plus earned surplus of the Railroad Company to the extent the same shall have been capitalized.

Any moneys which are deposited with the Trustee as and for the Contingent Sinking Fund, as required by the provisions of this Section 2 and as required or permitted by the provisions of Section 2 of Article VII, shall be applied by the Trustee, so long as no Event of Default has occurred and is continuing, to the payment, purchase or redemption of Outstanding Bonds in the following manner:

(a) The Trustee may apply such moneys to the payment of the principal and accrued interest of the Out-

standing Bonds of any series then matured or to mature within one year after the date of such deposit; or

(b) The Trustee may purchase Outstanding Bonds of any series either in the open market at the lowest price or prices at which, in the sole discretion of the Trustee, it shall deem such Bonds reasonably obtainable; or, if the Trustee in its sole discretion shall deem it advisable, it may advertise for proposals to sell such Bonds to it, reserving the right to reject any or all such proposals in whole or in part, and may purchase such Bonds at the lowest price or prices asked in such proposals if it deems such purchases advisable; but no such Bonds shall be purchased in the open market or in response to proposals at a price, including accrued interest, in excess of the amount, inclusive of premium and accrued interest, which would be payable in case of redemption at the earliest applicable redemption date, or in excess of the principal amount thereof plus accrued interest if not subject to such redemption; and

(c) Whenever the balance remaining on deposit in the Contingent Sinking Fund on November 1 of any year equals or exceeds $50,000, the Trustee shall apply such balance to the redemption of Outstanding Bonds of any series on the next interest payment date applicable to such Bonds, at the redemption price applicable to the Bonds of such series. The Trustee shall give notice of such redemption in the name of the Railroad Company in the manner and in accordance with the applicable provisions of Article IV; and the Trustee is hereby appointed the agent of the Railroad Company for such purpose. The Railroad Company covenants that whenever any redemption of Bonds shall be required under the provisions of this Section 2, it will at the request of the Trustee take all action necessary, and authorize the Trustee to take all action necessary, to redeem such Bonds on the date specified by the Trustee.

The Railroad Company covenants that in connection with any purchase or redemption of Bonds under this Section 2

it will deposit with the Trustee, upon request of the Trustee in the case of purchase or prior to the date fixed for redemption in the case of redemption, in addition to funds theretofore deposited in the Contingent Sinking Fund, moneys sufficient to pay, in the case of purchase, the excess, if any, of the purchase price, including accrued interest, over the principal amount thereof, and, in the case of redemption, all premiums and accrued and unpaid interest thereon to the date fixed for redemption.

All advertising and publishing costs and other expenses incurred in the purchase or redemption of such Bonds, and all amounts paid on account of interest in the purchase of such Bonds, shall be paid by the Railroad Company, or, if paid by the Trustee, shall be repaid by the Railroad Company to the Trustee upon demand.

The Board of Directors may, by Certified Resolution delivered to the Trustee concurrently with the deposit of moneys in the Contingent Sinking Fund, designate the series of Bonds to be purchased or redeemed with such moneys. In the absence of such designation, the Trustee in its sole discretion may apply such moneys to the purchase or redemption of Bonds of any series then outstanding.

All Bonds so paid, purchased or redeemed in accordance with this Section 2 shall be cancelled, and shall not be made the basis for the authentication and delivery of any Bonds or the withdrawal, payment or application of any cash under any provision of the Mortgage.

Section 3. Whenever the acquisition of Equipment is made the basis for the authentication and delivery of Bonds, the Railroad Company covenants that it will, by supplemental indenture, establish an Equipment Sinking Fund for the retirement of an equivalent principal amount of Bonds

within a period of 15 years or a period equal to the estimated service life of such Equipment, whichever period is the shorter, and will covenant therein to deposit with the Trustee on each January 1 and July 1 thereafter, to the extent, *first* of the funds in the Reserve and Retirement Fund available therefor pursuant to clause (a) of Section 2 of Article VII, and *next* of Available Net Income applicable thereto pursuant to clause (c) of Section 1 of Article V, an amount of money equal to the quotient obtained by dividing the principal amount of such Bonds by 30 or by twice the number of years of such estimated service life, whichever is the lesser. If such Equipment or any part thereof shall have been in use by the Railroad Company for a period of more than 90 days at the time of an Application for the authentication and delivery of Bonds, the Gross Expenditures for such Equipment and the principal amount of Bonds to which the Railroad Company would be entitled on account thereof shall be proportionately reduced by the period of such use by the Railroad Company; and the amount of money to be deposited with the Trustee on each January 1 and July 1 above specified shall be increased by such an amount as to make said semi-annual deposits equal in the aggregate, over a period of 15 years or a period equal to the estimated service life of such Equipment, whichever is the shorter period, diminished by the period of such use by the Railroad Company, the principal amount of Bonds which the Railroad Company may be entitled to receive.

For the purpose of this Section 3, the estimated service life of any Equipment shall be that established by the certificate of an engineer (who shall be appointed by the Board of Directors and be satisfactory to the Trustee and who may be an officer or employee of the Railroad Company) delivered to the Trustee pursuant to the provisions of clause (f) of Section 2 of Article III when the acquisition of such Equip-

ment is made the basis for the authentication and delivery of Bonds.

Any moneys deposited with the Trustee as and for an Equipment Sinking Fund shall be applied by the Trustee to the retirement of Bonds in accordance with the provisions of the supplemental indenture creating such Equipment Sinking Fund.

SECTION 4. Whenever the acquisition of Equipment is made the basis for the withdrawal, payment or application of any cash held by the Trustee under any provision of the Mortgage, the Railroad Company covenants to pay to the Trustee on each January 1 and July 1 thereafter an amount of money equal to the quotient obtained by dividing the amount of cash so withdrawn, paid or applied by 30 or by twice the number of years of service life of such Equipment, whichever is the lesser. If such Equipment or any part thereof shall have been in use for a period of more than 90 days at the time of Application for such withdrawal, payment or application, the Gross Expenditures for such Equipment, and the amount of cash that may be withdrawn, paid or applied, shall be reduced in the same manner and to the same extent as provided in the first paragraph of Section 3 of this Article VIII.

For the purpose of this Section 4, the estimated service life of any Equipment shall be established by the certificate of an engineer (who shall be appointed by the Board of Directors and approved by the Trustee and who may be an officer or employee of the Railroad Company) delivered to the Trustee with an Application for the withdrawal, payment or application of cash upon the basis of the acquisition of such Equipment.

Such moneys shall be held and applied by the Trustee as in the case of money deposited upon the release of mortgaged property in the manner provided in Section 7 of Article XI.

ARTICLE IX

GENERAL COVENANTS

The Railroad Company covenants as follows:

SECTION 1. The Railroad Company will duly and punctually pay or cause to be paid the principal of (and premium, if any) and interest on the Bonds at the times and at the place or places and in the manner and to the extent specified therein and in the coupons.

SECTION 2. The Railroad Company will maintain in the City of Chicago, Illinois, and in the Borough of Manhattan, City of New York, New York, an office or agency where payment of the principal of and interest on Bonds may be made, where notices, presentations and demands to or upon the Railroad Company in respect of Bonds or coupons appertaining thereto or in respect of the Mortgage may be given or made and where Bonds may be registered, transferred and exchanged. The Railroad Company will also maintain a similar office or agency in each other city where the principal of or interest on any of the Bonds is payable, as provided in Article II. The Railroad Company will give to the Trustee notice of the location of all such offices or agencies and of any change of location thereof. In case the Railroad Company shall fail to maintain any such office or agency or shall fail to give notice of the location or of any change in the location thereof, notices, presentations and demands may be given or made at the principal office of the Trustee.

If the Railroad Company shall appoint a paying agent other than the Trustee, it will cause such paying agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section 2:

(a) that it will hold all sums held by it as such agent for the payment of the principal of (and premium, if any) or interest on any of the Bonds (whether such sums have been paid to it by or on behalf of the Railroad Company or any other obligor on the Bonds) in trust for the benefit of the holders of such Bonds or the coupons for such interest, as the case may be; and

(b) that it will give to the Trustee notice of any failure by the Railroad Company (or by any other obligor on such Bonds) to make any payment of the principal of (and premium, if any) or interest on such Bonds when the same shall be due and payable which shall come to its notice or knowledge as such paying agent.

If the Railroad Company shall act as its own paying agent in respect of the Bonds of any series, it will, on or before each due date of the principal of (and premium, if any) or interest on such Bonds, set aside, segregate and hold in trust for the benefit of the holders of such Bonds or the appurtenant coupons, as the case may be, a sum sufficient to pay such principal (and premium, if any) and interest so becoming due and will notify the Trustee of any failure to take such action.

The Railroad Company may, at any time, for the purpose of obtaining a release or satisfaction of the Mortgage or for any other reason, pay or cause to be paid to the Trustee all sums held in trust by it or by any paying agent pursuant to this Section 2, such sums thereafter to be held by the Trustee upon the same trusts as in this Section 2 provided.

The agreement to hold sums in trust as provided in this Section 2 is subject to the provisions of Section 4 of Article XVIII.

SECTION 3. The Railroad Company will execute and deliver, or will cause to be executed and delivered, all such further

deeds, mortgages, assignments and transfers as may be required for the better mortgaging, assigning and confirming to the Trustee of the property hereby mortgaged, conveyed or assigned, or intended so to be, or which the Railroad Company may hereafter become bound to convey or assign to the Trustee.

The Railroad Company will deliver to the Trustee on or before April 1 in each year, beginning with the year 1946, an Opinion of Counsel that no further deeds, mortgages, assignments or transfers are required to be executed and delivered by the Railroad Company under the provisions of this Section 3, except such instruments as shall be specified in such opinion.

SECTION 4. The Railroad Company owns and is lawfully possessed of the lines of railroad, property and franchises referred to in the granting clauses hereof, and is duly authorized to operate and does operate said lines of railroad, and covenants and agrees to execute any and all instruments and do any and all acts or things necessary or proper to perfect its title to the same or any thereof, and, subject to the provisions of Article XII hereof, to take all steps and do all acts necessary to continue and maintain its corporate existence and authority to operate its lines of railroad.

SECTION 5. The Railroad Company, from time to time as they shall become due, will make, or cause to be made, any and all payments required to be made under and by the terms of any Equipment Obligation, including those described in the granting clauses hereof, and will do or cause to be done all and every such further acts as may be necessary to assure to the Railroad Company the use of the Equipment to which such Equipment Obligation relates and the ultimate acquisition of complete title thereto.

Nothing in this Section 5 contained and nothing in any other provision of the Mortgage, express or implied, is intended or shall be construed to limit the right or power of the Railroad Company, which is hereby expressly reserved, to extend, prior to the maturity of any Equipment Obligation, the balance of the rental or other payments remaining to be paid thereunder or secured thereby or to refinance the same by entering into a new Equipment Obligation.

SECTION 6. The Railroad Company will well and truly pay and discharge or cause to be paid and discharged upon presentation thereof for payment when due the principal of all obligations having a lien on the mortgaged property or any part thereof prior to the lien of the Mortgage; and until paid or discharged at maturity or otherwise it will pay or cause to be paid the interest payable thereon at the time and at the place or places set forth therein or in the coupons attached thereto; and it will prevent any default or other thing from happening whereby the right might arise to enforce by foreclosure or otherwise any such obligations; provided, however, that the Railroad Company may extend or renew any such obligations.

In all cases in which, pursuant to the requirements of any mortgage or other instrument constituting a lien prior to the lien of the Mortgage, cash, securities, obligations or rights which would otherwise be required to be deposited with the Trustee are deposited with the trustee or mortgagee under such mortgage or other instrument, the Railroad Company will forthwith, upon the discharge and cancellation of such mortgage or other instrument (subject to the obligation of the Railroad Company, if any, to cause the same to be deposited under any other such mortgage or other instrument), cause to be deposited with the Trustee any and all such cash, securities, obligations or rights remaining at the time of such

discharge and cancellation with the trustee or mortgagee of the mortgage or other instrument so discharged and cancelled. The Railroad Company hereby authorizes and directs the trustee or mortgagee under each such mortgage or other instrument, upon such discharge and cancellation thereof, to deposit with the Trustee all such cash, securities, obligations or rights so remaining. The Railroad Company covenants to deliver a copy of the Mortgage to the trustee or mortgagee under each such mortgage or other instrument and furnish the Trustee with evidence of such delivery.

SECTION 7. The Railroad Company, from time to time, will pay and discharge, or cause to be paid and discharged, all taxes, assessments and governmental charges (the lien whereof would be prior to the lien of the Mortgage) lawfully imposed upon the mortgaged property or upon any part thereof, or upon the income and profits thereof, and also all taxes, assessments and governmental charges lawfully imposed upon the lien or interest of the Trustee in respect of the mortgaged property or the income thereof, so that the lien and priority of the Mortgage shall be fully preserved at the cost of the Railroad Company without expense to the Trustee or the Bondholders; provided, however, that the Railroad Company shall not be required to pay any such taxes, assessments or governmental charges (i) so long as in good faith the validity or the amount thereof shall be contested by appropriate legal proceedings, unless thereby, in the judgment of the Trustee, the security afforded by the Mortgage will be materially impaired or endangered, or (ii) on property it has abandoned pursuant to permission granted by the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, or (iii) on property it has abandoned where no public regulatory body has jurisdiction if the property abandoned is no longer necessary for the

maintenance or operation of the lines of railroad subject to the lien of the Mortgage.

SECTION 8. The Railroad Company, from time to time as the same shall become due and payable, will observe and perform all of its obligations, and will pay and discharge all sums payable, under or by virtue of any lease or trackage agreement held by it and subject to the lien of the Mortgage and which is reasonably necessary for the maintenance and operation of the lines of railroad subject to the lien of the Mortgage, and will not suffer or permit any default for which such lease or trackage agreement may be terminated, so that, subject to the provisions of Articles XI and XII hereof, the interest of the Railroad Company in all such leasehold estates or trackage agreements shall be preserved unimpaired as security for the Bonds and coupons hereby secured.

Nothing in this Section 8 contained shall require the Railroad Company to make any such payments or to observe any such obligations so long as the Railroad Company in good faith shall contest its liability for any such payments or its duty to observe any such obligations, unless in the opinion of the Trustee such action will materially impair or endanger the interests of the Bondholders.

SECTION 9. Subject to the provisions of Articles XI and XII, the Railroad Company covenants and agrees that the Mortgage is and always will be kept a lien upon all of the mortgaged property, subject only to the liens prior thereto specified or referred to in the granting clauses hereof, the right, charge, lien or title of Equipment Obligations, Permitted Encumbrances, and purchase money liens on property acquired after the date hereof and liens thereon existing at the time of such acquisition, and that it will not voluntarily create, or suffer to be created or to arise, any other lien or

charge having priority to, preference over or parity with the lien of the Mortgage upon the mortgaged property, or any part thereof, or upon the income thereof; and that, within 6 months after the same shall be payable, it will pay or cause to be discharged, or will make adequate provision for the satisfaction or discharge of, all lawful claims and demands of mechanics, laborers and others, which, if unpaid, might by law be given precedence over the Mortgage as a lien or charge upon the mortgaged property or any part thereof, or the income thereof; provided, however, that the Railroad Company shall not be required to pay any such debt, lien or charge so long as it shall in good faith, by appropriate legal proceedings, contest the validity thereof or the amount thereof unless thereby, in the opinion of the Trustee, the interests of the Bondholders will be materially impaired or endangered.

SECTION 10. Subject to the provisions of Articles XI and XII, and to the extent needful and proper for the efficient and economic operation of its properties, the Railroad Company will at all times diligently maintain, preserve and keep all of the rights and franchises granted to it or conferred upon it, maintain, preserve and keep its railroads, fixtures and appurtenances in good repair, working order and condition and from time to time make all needful and proper repairs thereto and renewals and replacements thereof, and keep the lines of railroad subject to the Mortgage supplied with Equipment, machinery, tools and other supplies, maintain the same in good order and condition, reasonable wear and tear excepted, and from time to time make all needful and proper repairs thereto and renewals and replacements thereof.

SECTION 11. Subject to the terms and provisions of Articles XI and XII, the Railroad Company will maintain its prop-

erty, rights and franchises and continue the full enjoyment thereof so as to maintain the general continuity of its lines of railroad between the principal points served by it as of the date of the execution and delivery of the Mortgage and from time to time thereafter.

SECTION 12. The Railroad Company will forthwith upon acquisition deposit and pledge with the Trustee, as further security for the Bonds, all Securities hereafter acquired by it except (i) Special Securities, (ii) Debt Securities hereafter acquired by the Railroad Company in reimbursement of expenditures for Additions and Betterments to the properties of Chicago, Terre Haute and Southeastern Railway Company, and (iii) Securities deposited with the trustee or mortgagee of any Prior Lien or required to be so deposited by the terms of such Prior Lien; and that upon cancellation or release of any Prior Lien, all such Securities then held by the trustee or mortgagee thereunder will be forthwith deposited and pledged with the Trustee unless then required to be deposited or pledged or held under another lien prior to the lien of the Mortgage.

SECTION 13. The Railroad Company will not procure the authentication and delivery of any Bonds hereunder, the release of any property herefrom, or the withdrawal, payment or application of any cash held by the Trustee under any provision of the Mortgage, except upon compliance by the Railroad Company with the applicable provisions of the Mortgage; and will not issue any other obligations or securities except common stock for the purpose of capitalizing, or reimbursing the Railroad Company for, any expenditures from the Reserve and Retirement Fund or the Additions and Betterments Fund.

The Railroad Company will not procure the authentication and delivery of any Bonds hereunder, the release of any property herefrom, or the withdrawal, payment or application of any cash held by the Trustee under any provision of the Mortgage, on the basis of Additions and Betterments subject to any Prior Lien if after giving effect thereto the Cost of Additions and Betterments then subject to liens securing Prior Lien Bonds would exceed 10% of the aggregate of the principal amount of such Prior Lien Bonds and the principal amount of Bonds then outstanding.

SECTION 14. The Railroad Company will not increase or permit to be increased in principal amount any of its obligations (other than Bonds, Equipment Obligations and Permitted Encumbrances) which are at the time of the making or assuming of such obligations secured by a lien on the mortgaged property, or any part thereof, prior to or on a parity with the lien of the Mortgage unless the obligations representing such increase are forthwith deposited and pledged with the Trustee to be held subject to the provisions of Article X.

SECTION 15. The Railroad Company will maintain a record of all Equipment and will furnish to the Trustee at least once in each period of 3 years following the date of the execution and delivery of the Mortgage a statement of the number of units by classes of said Equipment, and showing separately the Equipment that is held under or subject to Equipment Obligations and the expenditures therefor, and specifying the amount and maturities of all such Equipment Obligations.

SECTION 16. The Railroad Company will cause the Mortgage and every supplemental indenture or instrument purporting to create a lien upon the mortgaged property to secure the Bonds, to be recorded and filed and re-recorded and re-

filed to the extent necessary to make effective and maintain the lien intended to be created thereby, and will, on or before April 1 in each year, beginning with the year 1946, furnish to the Trustee an Opinion of Counsel stating either that in the opinion of such counsel the Mortgage and all supplemental indentures or other instruments supplemental thereto have been properly recorded and filed and re-recorded and refiled, as the case may be, so as to make effective and maintain the lien intended to be created thereby, or that in the opinion of such counsel no such action is necessary to make such lien effective and to maintain the same.

SECTION 17. The Railroad Company will cause all of the property at any time subject to the lien of the Mortgage and which is of a character usually insured by railroad companies to be kept insured in such manner and to such extent as is customary and usual in the operation of railroad companies in the territory served by the Railroad Company. On or before April 1, 1946, and on or before April 1 in each year thereafter, and at any other time upon the request of the Trustee, the Railroad Company will furnish to the Trustee an Officers' Certificate stating in general the character and extent of the insurance then maintained by the Railroad Company and stating that the same complies in all respects with the requirements of this Section 17.

If the proceeds from any insurance on the mortgaged property shall exceed the sum of $100,000 in respect of any one loss, such proceeds shall, subject to the requirements of any Prior Lien or Equipment Obligation on such property, be paid by the Railroad Company to the Trustee, accompanied by an Officers' Certificate as required by Section 22 of this Article IX, and shall be held and disposed of by the

Trustee as in the case of moneys deposited upon the release of mortgaged property as provided in Section 7 of Article XI.

If such proceeds be $100,000 or less in respect of any one loss, they shall be applied by the Railroad Company to the repair, restoration or replacement of the property damaged or destroyed or to the acquisition or construction of Additions and Betterments. Any property acquired by the Railroad Company out of the proceeds of insurance as aforesaid and any and all repairs, restorations, replacements, Additions and Betterments acquired or constructed out of such proceeds, subject to the requirements of any Prior Lien or Equipment Obligation on the property with respect to which such insurance was collected, shall become and be subject to the Mortgage as fully as though specifically mortgaged or assigned hereby, but, in the case of property repaired or restored, only in the same manner and to the same extent as the property damaged or destroyed with respect to which such insurance was collected.

SECTION 18. The Railroad Company will permit the Trustee, through its agents, to inspect the mortgaged property or any portion thereof at any time and from time to time, and will comply with all reasonable requests of the Trustee to furnish such information as the Railroad Company may have with respect to the mortgaged property.

SECTION 19. If any Additions and Betterments located on any leasehold shall have been Bonded, there shall be deposited with the Trustee, accompanied by an Officers' Certificate as required by Section 22 of this Article IX, upon the termination of such leasehold all amounts paid to the Railroad Company pursuant to the terms of such lease in reimbursement therefor. All amounts so received by the Trustee shall be held and disposed of as in the case of moneys deposited upon the release of mortgaged property as provided in Section 7 of Article XI.

SECTION 20. As and when there shall be delivered to the trustee under the General Mortgage pursuant to any provision thereof, any report, statement, certificate, opinion, copy of resolution, deed, conveyance, assignment or other document or proof, the Railroad Company will deliver a counterpart thereof to the Trustee, unless the same document or proof has been delivered to the Trustee pursuant to the provisions of the Mortgage.

SECTION 21. The Railroad Company will not pledge or hypothecate any Bonds or General Mortgage Bonds to secure any indebtedness created, assumed or guaranteed, directly or indirectly, by the Railroad Company (a) in an aggregate principal amount in excess of 150% of the principal amount of such indebtedness, and (b) unless and until the Railroad Company shall deliver to the Trustee a Certified Resolution authorizing such pledge or hypothecation, which Resolution shall have been adopted by the affirmative action of not less than two-thirds of the whole Board of Directors.

SECTION 22. Whenever the Railroad Company shall deposit with the Trustee the proceeds of any insurance as provided in Section 17 of this Article IX or the amounts paid to the Railroad Company in reimbursement for Additions and Betterments upon termination of any leasehold as provided in Section 19 of this Article IX, such deposit shall be accompanied by an Officers' Certificate, dated not more than 30 days prior to the delivery thereof to the Trustee, stating the circumstances of such deposit and the source of the moneys then being deposited.

SECTION 23. The Railroad Company will deliver to the Trustee at the time of the distribution thereof a copy of

each annual report and financial statement distributed by the Railroad Company to its shareholders, beginning with the annual report for the year 1945.

SECTION 24. The Railroad Company covenants that all funds made available to it after January 1, 1944, from all or any of the following sources shall, unless deposited with the trustee or mortgagee under a Prior Lien pursuant to the requirements of such Prior Lien, be applied only to provide for Gross Expenditures: (i) proceeds of insurance on the mortgaged property not deposited or required to be deposited with the Trustee, (ii) salvage recovered from mortgaged property retired, (iii) proceeds of property sold in accordance with the provisions of Article XI and not deposited or required to be deposited with the Trustee, and (iv) service losses charged to depreciation and amortization reserves on account of depreciable road property retired and replaced.

ARTICLE X

PLEDGED SECURITIES

SECTION 1. Securities deposited and pledged under the Mortgage, if not already in bearer form, or issued in the name of the Trustee, shall be duly endorsed in blank for transfer or accompanied by appropriate instruments of assignment and transfer in blank. Any Securities deposited and pledged under the Mortgage may if the Trustee so determines, and shall if the Railroad Company so requests, be stamped by the Trustee with an appropriate legend to the effect that the same are held in trust for the purposes declared in the Mortgage. The Trustee shall not be obligated to examine or pass upon the validity or genuineness of any Securities and their accompanying assignments tendered for deposit and pledge with it, including any mentioned and described in the granting clauses hereof, but if questioned the Trustee shall be entitled to rely upon Opinions of Counsel that any Securities so deposited and pledged are genuine and valid and what they purport to be and that any endorsements or assignments thereof are effective, genuine and valid.

All Debt Securities deposited and pledged under the Mortgage may be in temporary or definitive form, and shall be accompanied by all appropriate coupons appertaining thereto, if any, and, if susceptible of registration as to principal or interest, may if the Trustee so determines, and shall if the Railroad Company so requests, be registered, or exchanged for Debt Securities issued, in the name of the Trustee or its nominee.

SECTION 2. Unless and until an Event of Default shall have occurred and be continuing, and except as in the Mortgage otherwise expressly provided:

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Section 2

(a) The Railroad Company shall be entitled to collect and retain for its own use all earned cash dividends which may be declared on any Stock deposited and pledged hereunder and all sums which may become due and payable for interest upon Debt Securities so deposited and pledged; and the Trustee, upon the written request of the Railroad Company, shall deliver to the Railroad Company necessary and suitable assignments and orders for the payment to it or upon its order of all such earned cash dividends and shall deliver to it all coupons pertaining to any such Debt Securities, or suitable assignments and orders for the payment to it or upon its order of all such interest, as and when such coupons or interest shall become due and payable or at any time within 30 days prior thereto; the Trustee, upon the written request of the Railroad Company, shall pay over to the Railroad Company all sums which may be received by the Trustee representing interest and earned cash dividends; and the Trustee, upon written notice from the Railroad Company that any instalment of interest has been paid on any Debt Security payable to bearer but without interest coupons, shall note or permit to be noted thereon the fact of such payment;

(b) The Trustee (except with consent of the Railroad Company or as otherwise expressly authorized by the Mortgage), shall not be entitled to enforce payment of the interest on any Debt Security deposited and pledged hereunder, or to enforce any provision of or exercise any right under any mortgage or other instrument pursuant to which such Debt Security was issued or by which the same is secured;

provided, however, and it is hereby declared and agreed that, except as in the Mortgage otherwise expressly provided:

(1) The Railroad Company shall not be entitled to collect and the Trustee shall not pay over to the Railroad Company, and if collected by the Railroad Company it shall forthwith pay over to the Trustee, with respect to any Securities deposited and pledged or required to

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Article X
Section 2

be deposited and pledged hereunder, (i) the principal, in whole or in part, of any Debt Security; (ii) any interest on any Debt Security which shall have been paid out of the proceeds of any sale or condemnation of, or the proceeds of insurance on, the property covered by a mortgage or other lien securing such Debt Security, or out of the proceeds of sale of any property of the corporation liable upon such Debt Security in case of the dissolution, liquidation or winding up of such corporation, or out of any other proceeds of capital assets, it being the intent of the Mortgage that the Railroad Company shall be entitled to receive only interest paid out of revenues, rents, earnings, profits, or income; (iii) any amounts paid on redemption of any Security, other than on account of accrued interest or dividends; (iv) any liquidation dividends consequent upon the dissolution, or total or partial liquidation or winding up, or reduction of Stock, of any corporation; and (v) any other dividends, whether payable in Stock, cash or property, except only earned cash dividends;

(2) The Railroad Company shall not collect any such dividends, coupons or interest by legal proceedings or by the enforcement of any security therefor, except upon at least 30 days' prior written notice to the Trustee;

(3) Until actually paid, cancelled or discharged, each coupon or right to interest or dividends shall remain subject to the lien of the Mortgage, and the Railroad Company shall not sell, assign or transfer any such coupon or right to interest or dividends;

(4) The Railroad Company may release and discharge, in whole or in part, any and all claims for interest on any Railroad Subsidiary Bonds deposited and pledged hereunder, when and as such interest becomes due; and

(5) The Trustee shall be entitled to assume that all such interest has been or will be paid out of revenues, rents, earnings, profits, or income and that all dividends paid in cash are or will be earned cash dividends, unless

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Article X
Sections 2 and 3

and until the Trustee is notified in writing to the contrary by the payor, its agent, the Railroad Company or one or more Bondholders.

Section 3. Unless and until an Event of Default shall have occurred and be continuing, the Railroad Company shall have the right to vote and give consents in respect of all Securities deposited and pledged hereunder for all purposes not contrary to the provisions of the Mortgage or inconsistent therewith, and to consent to, ratify or waive notice of any and all meetings, with the same force and effect as though such Securities were not subject to the lien hereof; and the Trustee, in respect of Securities issued in its name or in the name of its nominee or nominees, shall upon the written request of the Railroad Company give suitable waivers of notice and consents and deliver to the Railroad Company, or to its nominee or nominees, suitable powers of attorney or proxies with or without power of substitution and either generally or for such one or more objects as such proxy shall specify. The Railroad Company covenants that it will not vote or permit to be voted or give or permit to be given any consent in respect of any such Securities for any purpose contrary to the provisions of the Mortgage or inconsistent therewith.

The Trustee, with the written consent of the Railroad Company, evidenced by a Certified Resolution delivered to the Trustee, and without such consent if an Event of Default shall have occurred and be continuing

(a) may vote or give consents in respect of any Securities deposited and pledged hereunder and authorize such Securities to be voted and such consents to be given and may take such other action as to the Trustee, in its discretion, shall seem advisable to protect the interests of the Trustee and

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Article X
Sections 3 and 4

of the Bondholders in respect of any Securities subject to the lien hereof; and

(b) may in respect of any such Securities join in or become party to any plan of reorganization or readjustment (whether voluntary or involuntary) of the corporation issuing such Securities and deposit such Securities under such plan, and may make any exchange, substitution, cancellation or surrender of Securities required by any such plan and take such action with respect to Securities subject to the lien hereof as may be required by such plan for the accomplishment thereof. All new Securities issued under any such plan in exchange for Securities previously deposited and pledged hereunder shall be deposited with the Trustee and held by it under and for the purposes expressed in the Mortgage.

Section 4. In case at any time

(a) default shall be made in the payment of the principal of or interest on any Debt Security deposited and pledged hereunder, or

(b) default shall be made in any of the covenants, terms or conditions contained in any such Debt Security or the mortgage or other instrument securing the same or pursuant to which the same shall have been issued, or

(c) the right shall arise to enforce, by foreclosure or otherwise, any such mortgage or other instrument,

then, and in any such case, upon the written request of the Railroad Company, accompanied by a Certified Resolution authorizing the same, and without such request if an Event of Default shall have occurred and be continuing, the Trustee, as the holder of such Debt Security, may in its discretion exercise all rights of the holder thereof and all rights under the mortgage or other instrument securing the same, or

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Article X
Sections 4 and 5

pursuant to which it was issued, and cause such proceedings as may be approved by counsel to be instituted and prosecuted in a court of competent jurisdiction to enforce the payment of the principal and interest on such Debt Security and the performance of the covenants, terms or conditions therein and in such mortgage or other instrument contained and the foreclosure or other enforcement of such mortgage or other instrument, or otherwise.

Section 5. Unless an Event of Default shall have occurred and be continuing, the following transactions may be carried out and consummated:

(a) The renewal or extension of any Debt Security deposited and pledged hereunder at the same or a lower or higher rate of interest;

(b) The renewal or extension of any mortgage or other lien or instrument securing any Debt Securities deposited and pledged hereunder; and

(c) The issue in substitution for any Securities of a Railroad Subsidiary deposited and pledged hereunder of other Securities issued by the same Railroad Subsidiary which, except in the case of Common Stock, shall be of the same or a greater aggregate principal amount or liquidation value, shall be secured by the same or an equivalent or prior lien or entitle the holder to an equivalent or superior liquidation and dividend preference, and shall bear the same or a higher or lower rate of interest or preferred dividend;

subject, however, to the following terms and conditions:

(1) All Securities so renewed or extended (if replaced by new Securities) and all Securities for which new Securities are substituted shall be delivered by the Trustee to the corporation issuing the same solely for retirement.

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Section 5

(2) All Securities so issued in renewal, extension or substitution shall forthwith upon the issue thereof be deposited and pledged hereunder to the same extent and in the same manner as the Securities renewed or extended or for which they are substituted.

(3) No such substitution shall be made if it will reduce the percentage of the number of shares of any class of Stock of any Railroad Subsidiary deposited and pledged hereunder below 90% of the total outstanding shares of such class.

(4) No such substitution shall be made if the substituted Securities are of an issue junior to the Securities to be retired.

(5) In each such case the Trustee shall be furnished with the following:

(A) An Officers' Certificate stating in substance as follows: (i) the Securities (briefly described) to be renewed, extended or retired and the terms of such renewal, extension or retirement; (ii) the Securities (briefly described), if any, to be issued in substitution; (iii) that the renewal, extension or substitution will be to the benefit and advantage of the Railroad Company and will not be detrimental to the interest or security of the Bondholders; (iv) whether the Securities to be renewed or extended or for which new Securities are to be substituted are Securities of a Railroad Subsidiary; (v) that if such new Securities are to be substituted for Securities of a Railroad Subsidiary such substitution will not, after the deposit and pledge of such new Securities with the Trustee, reduce the number of shares of any class of Stock of such Railroad Subsidiary then deposited and pledged hereunder below 90% of the total outstanding shares of such class; (vi) that the Securities, if any, to be issued in substitution will not be junior to the Securities to be retired; and (vii) that no Event of Default has occurred and is continuing.

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Article X
Sections 5, 6 and 7

(B) An Opinion of Counsel that such renewal, extension or substitution is in accordance with the provisions of the Mortgage and that any Securities so to be renewed or extended will, upon such renewal or extension, and any new Securities to be issued will, upon the issue and delivery thereof to the Railroad Company, be validly issued and outstanding and what they purport to be and validly owned by the Railroad Company; that whatever consent, authorization or approval on the part of any governmental authority is requisite for such ownership and pledge has been obtained; that all shares of Stock, if any, included in such Securities are fully paid and non assessable; and that upon the deposit and pledge of said Securities hereunder the Mortgage will constitute a valid, enforceable and direct lien thereon, free and clear of liens prior thereto.

Upon receipt of the instruments specified in clauses (A) and (B), and a Certified Resolution requesting any such extension, renewal or substitution, the Trustee shall permit the same and take any other action necessary to effect any such extension, renewal or substitution.

Section 6. The Trustee may sell, assign, transfer and deliver so many shares of the Stock of any corporation whose Stock is deposited and pledged under the Mortgage as may be necessary to qualify persons to act as directors of, or in any other official relation to, such corporation. In every such case the Railroad Company shall make such arrangements with the Trustee as shall be deemed necessary by the Trustee for the protection of the trusts hereunder.

Section 7. In case a corporation any of the Securities of which shall be deposited and pledged under the Mortgage shall be consolidated with or merged into, or shall convey all or substantially all of its properties to, the Railroad Company, the Securities of such corporation that are deposited

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Article X
Sections 7 and 8

and pledged under the Mortgage shall be surrendered to the consolidated corporation or to the Railroad Company, as the case may be, but only if, as evidenced by an Opinion of Counsel furnished to the Trustee, (a) by virtue of such consolidation or merger and the application of the provisions of Article XII the lien of the Mortgage has extended to the property of such corporation the Securities of which are so surrendered, and (b) in the case of any Debt Securities so surrendered which are secured by a lien on the property of such corporation, the lien of the Mortgage resulting from such consolidation or merger is substantially equivalent to the lien securing such Debt Securities.

Section 8. In case at any time

(a) any corporation, the Securities of which shall be deposited and pledged hereunder, shall be dissolved or liquidated, or

(b) all or any of the property of any such corporation shall be sold at any judicial sale, or

(c) any of the property covered by any mortgage securing any Debt Security deposited and pledged under the Mortgage shall be sold in foreclosure proceedings or other proceedings for the enforcement of such mortgage or the Debt Security thereby secured,

then, and in any such case, if the property of such dissolved or liquidating corporation or the property sold can be acquired by crediting on the Securities so pledged under the Mortgage any sum accruing or to be received thereon out of the proceeds of such property, and by paying not more than 10% of the price of such property in cash (or more than 10% if the Railroad Company or the holders of 25% in principal amount of the Outstanding Bonds shall so request), the Trustee in its discretion may, and if requested in writing by the Railroad Company or the holders of 25% in principal amount

of the Outstanding Bonds and upon being provided with the amount of cash necessary therefor (whether such amount be more or less than 10% of the price of such property) and security or indemnity satisfactory to it against any expense or liability on its part, shall, purchase or cause to be purchased such property, either in the name or on behalf of the Trustee or of the Railroad Company or of purchasing trustees, as the Trustee may determine, and the Trustee shall use, or permit the Railroad Company to use, such Securities so far as may be permissible to make payment for such property. In the event of any such purchase, the Trustee shall take such steps as it may deem proper to cause such property either to be vested in the Railroad Company and subjected to the direct lien of the Mortgage or in some other corporation with power to acquire and operate such property. The Railroad Company covenants that, if such property is vested in some other corporation with power to acquire and operate such property, all Securities of such other corporation acquired directly or indirectly through such use of the pledged Securities will be deposited and pledged under the Mortgage.

SECTION 9. The Railroad Company covenants that, except as permitted by paragraph (b) of Section 3 of this Article X, no Railroad Subsidiary will increase the amount of its outstanding shares of Stock of any class unless after such increase the percentage of shares outstanding necessary to meet the requirements of a Railroad Subsidiary shall be pledged hereunder. In the event that the outstanding amount of any class of Stock of any Railroad Subsidiary shall be reduced, the Trustee, upon the written request of the Railroad Company, shall surrender for cancellation the certificates evidencing such part of the shares of such class of Stock so pledged hereunder as shall be proportionate to the amount of such reduction.

SECTION 10. The Railroad Company covenants and agrees that no Railroad Subsidiary will create or increase the amount of its debts secured by lien equal or prior in rank to the lien of any bonds of such Railroad Subsidiary pledged under the Mortgage, unless the Debt Securities for the debt so created or the increase thereof are also pledged with the Trustee.

SECTION 11. The Railroad Company covenants that no Railroad Subsidiary will make any sale, exchange or other disposition of its property contrary to the provisions of Part B of Section 1 of Article XI and that, except as otherwise expressly provided in the Mortgage, no Railroad Subsidiary will at any time sell, exchange or otherwise dispose of its property, real or personal, or any part thereof, except for adequate consideration and unless the Railroad Company shall first file with the Trustee the following:

(a) An Officers' Certificate dated not more than 30 days prior to the delivery thereof, stating

(1) that such Railroad Subsidiary desires to sell or exchange property, briefly described, or has contracted so to do, for a consideration described in the Certificate (which consideration may be cash or property or both), and that such consideration represents, in the opinion of the signers of the Certificate, an adequate consideration to such Railroad Subsidiary for the property to be sold or exchanged;

(2) a brief description of the property, if any, to be received as consideration in whole or in part, and stating that such property consists of railroad lines, bridges or terminals, or other property appurtenant to or useful to the railroad lines, bridges or terminals, owned and operated by such Railroad Subsidiary; and

(3) that the property to be sold or exchanged is no longer necessary or advantageous in the business of such Railroad Subsidiary, and either (i) that the substantial

integrity and efficiency of the lines of railroad, bridges and terminals of such Railroad Subsidiary will not be impaired by such sale or exchange, or (ii) that the sale or exchange is made in compliance with the provisions of Part B of Section 1 of Article XI.

(b) An Opinion of Counsel (in case the Certificate states that the consideration to the Railroad Subsidiary consists of property in whole or in part) that such property to be received by the Railroad Subsidiary is free and clear of liens other than Permitted Encumbrances.

Sales, exchanges and other dispositions of its property may be made by any Railroad Subsidiary in any calendar year without the filing of the instruments provided for in this Section 11, unless and until the value of the property disposed of by such Railroad Subsidiary in that year has exceeded or will exceed $25,000.

The Railroad Company covenants and agrees that within 15 days after the sale or disposition of any property by a Railroad Subsidiary as to which the instruments provided by this Section 11 shall be required, the Railroad Company will deposit or cause to be deposited with the Trustee an amount equal to the amount of any cash received by such Railroad Subsidiary for the property so sold, unless such Railroad Subsidiary has deposited such amount with the trustee or mortgagee of a mortgage securing Railroad Subsidiary Bonds of such Railroad Subsidiary in accordance with the requirements of such mortgage, as to which such deposit the Trustee shall be furnished with a statement of the trustee or mortgagee of such mortgage certifying thereto.

SECTION 12. The Railroad Company may, unless an Event of Default shall have occurred or be continuing, sell the Securities of any corporation which are deposited and pledged

under the Mortgage, except Prior Lien Bonds, but only upon and subject to the following conditions:

(a) All Securities of such corporation pledged hereunder shall be sold simultaneously.

(b) The Trustee shall be furnished with an Officers' Certificate dated not more than 30 days prior to the delivery thereof and setting forth:

(1) A description of the Securities to be disposed of by the Railroad Company, a statement that the Securities so described include all Securities of such corporation pledged hereunder and a statement as to whether or not such corporation is a Railroad Subsidiary.

(2) A brief statement of the price or consideration to be received by the Railroad Company (which consideration may be cash, or cash and purchase money obligations secured by a pledge of the Securities to be sold) and a statement that the amount of such consideration is not less than the fair value to the Railroad Company of the Securities to be sold and represents an adequate consideration therefor. None of such purchase money obligations shall mature more than 5 years from the date of issue, and the aggregate principal amount thereof shall not exceed 60% of the total amount of such consideration.

(3) If the Securities to be disposed of are Securities of a Railroad Subsidiary, a statement that such sale is subject to the provisions of Part B of Section 1 of Article XI, accompanied by showings in compliance therewith, or a statement that the provisions of said Part B are not applicable to such sale.

(4) That no Event of Default has occurred and is continuing.

(c) The consideration stated in the Certificate provided for in subdivision (b) of this Section 12 to be received by the

Railroad Company shall be deposited and pledged with the Trustee.

(d) The Trustee shall be furnished with an Opinion of Counsel stating that (1) such sale is in accordance with the provisions of the Mortgage, (2) the Trustee is authorized under the terms of the Mortgage to comply with the request of the Railroad Company in consummation of the sale, (3) any purchase money obligations mentioned in the Certificate provided for in subdivision (b) of this Section 12 are valid obligations, secured by a valid and enforceable pledge of the Securities to be sold, free and clear of prior liens, (4) such pledge contains appropriate provision for the security and protection of the Bonds, and (5) all necessary consent or approval of all governmental authorities for the sale and acquisition of such Securities has been btained or that no such consent or approval is necessary; and said opinion shall be accompanied by a certified copy of any such consent or approval specified in said opinion to be necessary.

(e) The Trustee shall be furnished with a Certified Resolution authorizing the sale of the Securities mentioned in the Certificate provided for in subdivision (b) of this Section 12, and requesting the release thereof from the lien of the Mortgage.

Upon receipt by the Trustee of the instruments mentioned in subdivisions (b), (d) and (e) of this Section 12, and the consideration to be received by the Railroad Company as therein stated, the Trustee shall release from the lien of the Mortgage, and deliver to or upon the written order of the Railroad Company, all Securities so to be sold at the time held by the Trustee.

SECTION 13. In case an Event of Default shall have occurred and be continuing, the Railroad Company may do any

of the things authorized to be done by it in Sections 2, 3, 5, 7, 8 and 12 of this Article X upon compliance by it with the respective provisions of said sections, if the Trustee, in the exercise of its discretion, in writing expressly authorizes or assents to such action. The Trustee shall so authorize or assent to such action if requested by the holders of a majority in principal amount of the Outstanding Bonds.

SECTION 14. All moneys received by the Trustee in respect of any Securities deposited and pledged hereunder, unless the Railroad Company shall be entitled to receive the same under the provisions of Section 2 of this Article X, shall be held, paid out or applied by it as in the case of money deposited upon the release of mortgaged property, in the manner provided in Section 7 of Article XI.

SECTION 15. The Railroad Company covenants and agrees that forthwith on demand of the Trustee it will pay, or will provide for in a manner satisfactory to the Trustee, all expenditures incurred by the Trustee under any of the provisions of this Article X, including all sums required to obtain and perfect the ownership and title to any property which the Trustee shall cause or authorize to be purchased pursuant to any provision of this Article X; and the Trustee in its discretion, without impairment of or prejudice to any of its rights under the Mortgage by reason of any default of the Railroad Company, may but shall not be obligated to advance any or all such expenses and such other moneys as may be required, or may procure such advances to be made by others, and for such advances made by the Trustee or by others at its request, with interest thereon at the rate of 4% per annum, the Trustee shall have a lien upon the mortgaged property in priority to the lien of the Bonds, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

ARTICLE XI

POSSESSION, USE AND RELEASE OF PROPERTY

SECTION 1. While the Railroad Company shall remain in possession of the mortgaged property, it shall be entitled to manage, operate, use and enjoy all and singular the property subject to the Mortgage (except any cash or Securities deposited or pledged or required to be deposited or pledged with the Trustee under the terms of the Mortgage) and to receive, take and use the rents, incomes and profits thereof subject to the terms of the Mortgage. The subsequent provisions of this Section 1 are for the purpose of permitting the advantageous use of the property subject to the Mortgage in the operation and management of the business so as most judiciously to maintain the value of such property of the Railroad Company and the value of the security for the Bonds.

PART A. While remaining in possession of the mortgaged property, the Railroad Company shall be entitled in the usual and ordinary conduct of its business:

(a) to alter, repair, dismantle when no longer useful, replace, change and add to its buildings, roadways, trackage, Equipment, materials, supplies and any other physical property;

(b) to make any change in the location of its lines, tracks, station houses, buildings or other structures situated upon or comprising any part of the property subject to the Mortgage to other premises, if said lines, tracks, station houses, buildings, structures and the premises whereon they shall be relocated shall be or concurrently become subject to the lien of the Mortgage to the same extent and with the same priority of lien as before such relocation; and

(c) to modify the rights under, or to abandon or terminate, any trackage, terminal, operating or other contract, agree-

ment or lease, easement, franchise, license, authority or permit under which the Railroad Company may now or hereafter conduct its railroad operations; provided, in the case of any modification, that the same does not substantially impair the rights of the Railroad Company in its railroad operations, shorten the term of any leasehold on which are located Additions and Betterments which have been Bonded or Otherwise Financed, or in the judgment of the Railroad Company impair the security or interests of the Bondholders, and in the case of any abandonment or termination, that such rights are no longer required for the railroad operations of the Railroad Company, and that rights of operation, substantially equivalent as to scope and term, are otherwise owned or are concurrently to be acquired and subjected to the lien of the Mortgage to the same extent and with the same priority of lien as existed prior to the modification, abandonment or termination.

PART B. To increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within its own transportation system which is subject to the lien of the Mortgage, and by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, the Railroad Company, while remaining in possession of the mortgaged property, may, under the conditions and upon compliance with the provisions of Sections 2 and 3 of this Article XI to the extent applicable:

(a) Sell, exchange for other property, abandon, lease or otherwise dispose of any part, substantially less than all, of its lines of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage, but only if, at or prior to such sale, exchange, abandonment, lease or other disposition,

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Article XI
Section 1

(1) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgment of the Board of Directors that

(i) such sale, exchange, abandonment, lease or other disposition will increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within the Railroad Company's own transportation system then subject to the lien of the Mortgage, or by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, and will not substantially impair the ability of the Railroad Company to handle the traffic of its transportation system, and

(ii) that the property so to be sold, exchanged, abandoned, leased or otherwise disposed of is no longer deemed necessary or expedient in the operation of its transportation system and that the security or interests of the Bondholders will not be impaired thereby; and

(2) there shall also be filed with the Trustee, as to any part of such lines of railroad (including any leasehold, trackage right or other interest therein) desired to be sold, exchanged, abandoned, leased or otherwise disposed of, an Officers' Certificate stating and setting forth the facts relied upon to show that

(i) such part of said lines of railroad is a branch or spur line, or is otherwise so separable from any main line serving principal points, that such sale, exchange, abandonment, lease or other disposition will not break the continuity of such main line between the principal points served thereby, or

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(ii) after said sale, exchange, abandonment, lease or other disposition there will remain at least one other route subject to the lien of the Mortgage between the principal points served by the part of such line to be sold, exchanged, abandoned, leased or otherwise disposed of, over which the traffic of its transportation system between such principal points may be handled with substantially equal facility, or

(iii) the Railroad Company has acquired, or upon such sale, exchange, abandonment, lease or other disposition will acquire, rights over lines of another railroad company through joint ownership, lease or trackage agreement whereby facilities will be available for general continuity of operation of its transportation system which are substantially equivalent to the facilities therefor of the lines of railroad to be sold, exchanged, abandoned, leased or otherwise disposed of, and that any such lease or trackage agreement, as evidenced by an Opinion of Counsel furnished to the Trustee, will extend at least beyond the latest date of maturity of any of the Bonds then outstanding and will not be subject to termination prior to its expiration date on account of any lien on the property covered thereby; and

(3) there shall be pledged with the Trustee or otherwise subjected to the lien of the Mortgage, subject only to Permitted Encumbrances, in such manner as shall be deemed sufficient in an Opinion of Counsel furnished to the Trustee, any and all rights of joint ownership, leases, and trackage agreements acquired by the Railroad Company and referred to in such Officers' Certificate pursuant to the preceding clause (2) (iii).

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Any lease of property of the Railroad Company made pursuant to this subdivision (a) shall be made expressly subject to immediate termination by the Trustee at any time upon the occurrence of an Event of Default and at any time during the continuance thereof, and also by the purchaser of the property so leased upon any sale thereof, whether such sale be made under the power of sale hereby conferred or under judicial proceedings.

Notwithstanding the foregoing provisions of this Part B, any line or portion of a line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage may be released, sold, exchanged, abandoned, leased or otherwise disposed of upon compliance solely with the provisions of clause (1) of this subdivision (a), if such release, sale, exchange, abandonment, lease or other disposition is with the approval or direction of the holders of a majority of all Outstanding Bonds, such approval or direction being made and evidenced pursuant to the provisions of Article XIII and filed with the Trustee.

(b) Sell, exchange or otherwise dispose of an undivided interest in any part of any line of railroad, or in any bridge or terminal, which is subject to the lien of the Mortgage, or grant an easement over, or enter into a trackage agreement providing for the use by another railroad of, any such line of railroad, or bridge or terminal, with or without use of appurtenant shop or other operating and service facilities; and any such easement or trackage right may, but need not, extend for a longer period than the latest maturity of any of the Bonds then outstanding, and may, but need not, be subject to termination by the Trustee upon the occurrence or during the continuance of any Event of Default, or by the purchaser of any property to which the same relates upon any sale thereof by virtue of the power of sale hereby conferred or under judicial proceedings; but in the case of each such sale, exchange or other disposition of an undivided interest or in case any such easement or trackage right shall extend for a longer period, as aforesaid, or is not subject to termination, as aforesaid, then at or prior thereto

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(1) there shall be furnished to the Trustee an Opinion of Counsel that there has been adequately preserved to the Railroad Company the equal or prior right to the use of any such line of railroad, bridge, or terminal in which an undivided interest has been disposed of or as to which an easement or trackage right has been so granted, and to appurtenant facilities, if any, as to which a right of use has been so granted, and

(2) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgment of the Board of Directors, in the case of any such sale, exchange or other disposition, that the same is advantageous to the economical and efficient operation of the business of the Railroad Company, or, in the case of any such easement or trackage right agreement, that the terms thereof are reasonable and advantageous to the economical and efficient operation of the business of the Railroad Company and, in either case, that such transaction will not substantially impair the ability of the Railroad Company to handle the traffic of its transportation system subject only to the lien of the Mortgage and Permitted Encumbrances at or between the principal points served thereby nor impair the security or interests of the Bondholders.

In case an easement over, or a trackage agreement providing for the use by another railroad of, any part of

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any line of railroad or in any bridge or terminal shall be granted by the Railroad Company for a longer period than the latest maturity of any of the Bonds then outstanding or not be subject to termination by the Trustee upon the occurrence or during the continuance of any Event of Default or by the purchaser of any property to which the same relates upon any sale thereof by virtue of the power of sale hereby conferred or under judicial proceedings, the Trustee shall, at the request of the Railroad Company and upon receiving the Opinion of Counsel and Certified Resolution with respect thereto as provided in this subdivision (b), execute and deliver a certificate or consent to the granting of such easement or trackage agreement.

Any principal point which is the terminus of any line of railroad of the Railroad Company subject to the lien of the Mortgage shall cease to be a principal point if, for a period of 5 successive years after the date of the Mortgage, traffic over the line, or a portion thereof serving such point designated as provided in the following sentence, has been such that the operation by the Railroad Company of such line or such designated portion, as the case may be, has been without profit during the whole of such period. Upon filing with the Trustee of an Officers' Certificate designating any such principal point and the line serving such point, or a specified portion thereof, and showing facts with respect to traffic and operation of such line or such specified portion thereof, as the case may be, fulfilling to the satisfaction of the Trustee the requirements of this paragraph, together with a Certified Resolution expressing the judgment of the Board of Directors that the principal point described in said Certificate is in fact no lenger a prin-

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cipal point in the operation of such lines of railroad, then said principal point shall no longer be deemed or treated as a principal point on such line for any purpose under the provisions of this Part B.

The provisions and limitations of this Part B shall govern any sale by the Railroad Company, pursuant to the provisions of Article X, of the securities of any Railroad Subsidiary owning a connecting line of railroad or bridge which forms a part of the transportation system of the Railroad Company, and any sale, exchange or other disposition by any Railroad Subsidiary, pursuant to the provisions of Article X, of property of such Railroad Subsidiary, to the same extent as though the property owned by such Railroad Subsidiary were owned by the Railroad Company.

Part C. In case any line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage is desired to be abandoned, prior to any such abandonment there shall be furnished to the Trustee, in addition to all other requirements of this Section 1, an Opinion of Counsel stating that any requisite approval of the Interstate Commerce Commission or other governmental authority having jurisdiction in the premises has been obtained for such abandonment and said Opinion of Counsel shall be accompanied by a certified copy of the order, if any, expressed to be so required.

Section 2. Except as hereinafter specifically provided in this Section 2, the Railroad Company while remaining in possession of the mortgaged property may, without obtaining a release from, action by or giving notice to the Trustee and without other action or proceeding on the part of the Railroad Company hereunder:

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(a) In the ordinary conduct of its business, sell, exchange or otherwise dispose of, free from the lien of the Mortgage, any office-equipment, machinery, tools, furniture, materials and supplies and other chattels (except Equipment) which may have become obsolete, worn out, unserviceable or no longer required in the conduct of its business; provided the Railroad Company shall, within a reasonable time, replace the same with other property which shall become subject to the lien of the Mortgage and be of a value to the Railroad Company at least equal to the value of the property so disposed of;

(b) In the ordinary course of its business, sell, exchange or otherwise dispose of, free from the lien of the Mortgage, any Equipment which is no longer useful, any buildings, bridges, structures, industrial tracks, side tracks or yard tracks which it has been desirable in the conduct of its business to retire from use, and any land constituting abandoned right of way or station grounds, or industrial sites or other land (with or without improvements thereon) which is no longer useful to the Railroad Company, if the consideration received on any such sale or other disposition does not exceed $5,000; provided that if the Railroad Company shall receive any cash or other consideration (other than property, which may but need not have a similar substitutional use, and which shall have become subject to the lien of the Mortgage) on any such sale or other disposition, it shall from time to time, but at intervals of not more than 90 days, shall deposit with the Trustee, or with the trustee or mortgagee of any Prior Lien as permitted by the provisions of Section 4 of this Article XI, an amount in cash equal to the cash so received and the fair value to the Railroad Company, in the opinion of the Engineer, of such other consideration; and

(c) Make any lease of any of its mortgaged property, other than its lines of railroad (including any leasehold, trackage right or other interest therein), bridges or terminals, or grant any easement, license or other right with respect to any of its mortgaged property which does not interfere with the use and operation of its lines of rail-

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road, bridges and terminals, provided such lease, easement, license or other right is subject to the continuing lien of the Mortgage.

On or before April 1, 1947, and on or before April 1 of each succeeding year, the Railroad Company shall file with the Trustee a report for the preceding calendar year signed as in the case of an Officers' Certificate and setting forth in reasonable detail a description of the property sold, exchanged or otherwise disposed of during the preceding calendar year under clause (b) of this Section 2, the cash or other consideration received by the Railroad Company in connection with each such sale, exchange or other disposition (showing separately, in the case of such other consideration, that which shall have become, and that which shall not have become, subject to the lien of the Mortgage), the total amount of consideration received during the preceding calendar year for property so sold, exchanged or otherwise disposed of, and the total amount thereof deposited with the trustee or mortgagee of any Prior Lien as permitted by the provisions of Section 4 of this Article XI.

Such report shall be accompanied by an Engineer's Certificate stating that the respective considerations received in all cases of sales, exchanges or other dispositions made under clause (b) of this Section 2 represented the fair value to the Railroad Company of the property sold and that in no case was the consideration received in any one sale in excess of $5,000 and stating the fair value to the Railroad Company of all such consideration other than cash.

In order to evidence the termination of the lien of the Mortgage on any property sold, exchanged or otherwise disposed of in accordance with this Section 2 the Trustee shall execute and deliver confirmatory releases or certificates that such property is free from the lien of the Mortgage from

time to time at the request of the Railroad Company upon receiving an Officers' Certificate describing in reasonable detail the property to be released, and stating that it has been sold, exchanged or otherwise disposed of under the provisions of this Section 2 and in full compliance with the terms and conditions prescribed herein, and an Engineer's Certificate stating the fair value to the Railroad Company of the property to be released and the fair value to the Railroad Company of all consideration, other than cash to be received by the Railroad Company therefor, and stating that the consideration, including cash, received or to be received by the Railroad Company for such property represented the fair value of such property to the Railroad Company and does not exceed $5,000.

SECTION 3. PART A. From time to time unless and until an Event of Default shall have occurred and be continuing, the Railroad Company may sell or dispose of, and in connection therewith obtain the release of, any part of the property subject to the lien of the Mortgage, other than cash or purchase money obligations held by the Trustee or securities deposited and pledged with the Trustee, provided that the applicable provisions, if any, of Part B of Section 1 of this Article XI are complied with; and the Trustee shall release from the lien of the Mortgage any such property if the fair value (as determined by the Engineer in accordance with the provisions of clause (g) of Part B of this Section 3) of the part of the property to be released shall not exceed the aggregate of:

(a) The cash, then being deposited with the Trustee or with the trustee or mortgagee of any Prior Lien as permitted by the provisions of Section 4 of this Article XI, which shall have been or is to be concurrently received by the Railroad Company as consideration or part consideration for the disposition of the property to be released;

(b) The principal amount of any purchase money obligations, then being deposited and pledged with the Trustee or with the trustee or mortgagee of any Prior Lien as permitted by the provisions of Section 4 of this Article XI, which shall have been received by the Railroad Company as consideration or part consideration for the disposition of the part of the property to be released and which shall be secured by a purchase money mortgage thereon; provided that

(1) such purchase money obligations shall mature within 5 years of the date thereof and shall be included only to the extent that the principal amount thereof does not in the aggregate exceed 60% of the fair value, determined as aforesaid, of the property to be released; and

(2) the aggregate principal amount of such purchase money obligations and all other purchase money obligations pledged with the Trustee pursuant to the provisions of this Section 3, and then held subject to the lien of the Mortgage (or pledged with the trustee or mortgagee of any Prior Lien, as permitted by the provisions of Section 4 of this Article XI, and then held by such trustee or mortgagee) shall not exceed 10% of the aggregate principal amount of Bonds outstanding at the date of the Application for release filed with the Trustee pursuant to the provisions of clause (b) of Part B of this Section 3;

(c) The Gross Expenditures (other than Gross Expenditures with respect to Equipment) then certified to the Trustee in the Officers' Certificate filed with the Trustee, pursuant to the provisions of clause (c) of Part B of this Section 3, with respect to Additions and Betterments which have been or are to be concurrently acquired by the Railroad Company as consideration or part consideration for the disposition of the property to be released and which shall not at the time of acquisition be subject to any lien, other than Permitted Encumbrances, prior to the lien of the Mortgage.

PART B. Prior to the release of any part of the property

from the lien of the Mortgage under this Section 3 there shall in each case have been delivered to the Trustee:

(a) A Certified Resolution authorizing or approving the request for release and stating that in the judgment of the Board of Directors such release is desirable in the conduct of the business of the Railroad Company;

(b) An Application for such release;

(c) An Officers' Certificate which shall contain:

(1) a description in reasonable detail of the property a release of which is requested, and the fair value thereof (determined in accordance with the provisions of clause (g) of this Part B);

(2) a statement of the amount of cash, if any, being deposited pursuant to clause (a) of Part A of this Section 3;

(3) a description in reasonable detail of the purchase money obligations, if any, being pledged pursuant to clause (b) of Part A of this Section 3, a statement that such purchase money obligations have been received as consideration or part consideration for the disposition of the property to be released, a statement that such purchase money obligations do not exceed the limitations of clause (b) (1) of Part A of this Section 3, and a computation showing that the principal amount of all such purchase money obligations does not exceed the limitations of clause (b) (2) of said Part A;

(4) the Gross Expenditures with respect to Additions and Betterments which have been or are to be concurrently acquired as consideration or part consideration for the property to be released, a description in reasonable detail of such Additions and Betterments, and a statement as to whether or not any such Additions and Betterments are located on any leasehold;

(5) a statement that no Event of Default has occurred and is continuing;

(6) a statement accompanied by a showing of compliance with Part B of Section 1 of this Article XI with respect to the property the release of which is applied for, or a statement that such property does not constitute any part of the lines of railroad or any bridge or terminal subject to the lien of the Mortgage or any leasehold, easement, trackage right or other interest therein; and

(7) a statement as to whether the property, the release of which is applied for, is subject to any Prior Lien of the nature referred to in Section 4 of this Article XI, and identifying any such liens;

(d) Any cash then being deposited with the Trustee pursuant to clause (a) of Part A of this Section 3, or, if any cash is being deposited with the trustee or mortgagee of any Prior Lien as permitted by the provisions of Section 4 of this Article XI, in connection with the release of the property to be released, a written statement of such trustee or mortgagee, as the case may be, certifying that such cash has been deposited with it;

(e) Any purchase money obligations then being deposited and pledged with the Trustee pursuant to clause (b) of Part A of this Section 3, or, if any purchase money obligations are then being pledged with the trustee or mortgagee of any Prior Lien as permitted by the provisions of Section 4 of this Article XI, in connection with the release of the property to be released, a written statement of such trustee or mortgagee, as the case may be, certifying that such purchase money obligations have been pledged with it, together, in either event, with any and all assignments thereof, supplemental indentures or other instruments which, as set forth in the Opinion of Counsel furnished pursuant to clause (h) of this Part B, are stated to be necessary or advisable to duly assign to the Trustee subject to such lien, or otherwise to render subject to the lien of the Mortgage, such purchase money obligations;

(f) All such deeds, supplemental indentures, or instruments

of further assurance, which, as set forth in the Opinion of Counsel furnished pursuant to clause (h) of this Part B, are stated to be necessary or advisable to subject to the lien of the Mortgage any property constituting Additions and Betterments included in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, or, in the case of Additions and Betterments located on leaseholds, to subject the leaseholds to such lien;

(g) An Engineer's Certificate stating the fair value to the Railroad Company of the property a release of which is requested;

(h) An Opinion of Counsel to the effect that:

(1) any purchase money obligations pledged with the Trustee, or with the trustee or mortgagee of any Prior Lien as permitted by Section 4 of this Article XI, have been validly issued; that the assignments, supplemental indentures or other instruments delivered to the Trustee pursuant to clause (f) of this Part B duly assign to the Trustee subject to such lien, or otherwise render subject to the lien of the Mortgage, such purchase money obligations, or that no such instruments are required for such purpose; and that such purchase money obligations are secured by a valid lien upon the property released subject to no liens prior or equal to the lien thereof, except any liens which were Permitted Encumbrances on the property released and except any Prior Lien to which the property released was subject; and

(2) the property constituting Additions and Betterments specified in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, except such as are located on leaseholds, is subject to the lien of the Mortgage or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures, or instruments of further assurance, if any, specified in said Opinion of Counsel, subject to no defect in title and subject to no lien thereon prior or equal to the lien of the Mortgage, except Permitted Encumbrances, if any, and if any such property is located on any lease-

hold, as shown by the Application, that such leasehold is subject to the lien of the Mortgage, or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures or instruments of further assurance, if any, specified in said Opinion of Counsel, and extends for a period of time not less than 10 years beyond the latest maturity date of any Bonds then outstanding, or that, under the terms of such leasehold, the Railroad Company has the right to be reimbursed in respect of the Cost of such Additions and Betterments or the right to remove the same upon the termination of such leasehold and that all of the Railroad Company's interest in such leasehold (except the last day of the term thereof), including any such right of reimbursement, has been pledged with the Trustee; provided that such Opinion of Counsel may recite that it is based upon certificates or opinions of officers or engineers of the Railroad Company as to any matters of fact not of public record.

SECTION 4. If, under the provisions of any Prior Lien on any part of property to be released from the Mortgage, there is required to be made with or to the trustee or mortgagee under such lien a deposit of cash or pledge of purchase money obligations in order to obtain a release therefrom of such part of the property subject to the Mortgage, the Railroad Company shall not be required to deposit or pledge with the Trustee such cash or purchase money obligations to the extent that the Railroad Company shall deposit such cash and pledge such purchase money obligations with the trustee or mortgagee of such lien.

SECTION 5. Should any part of the property subject to the lien of the Mortgage be taken by the exercise of the power of eminent domain or should any governmental body at any time exercise any right which it may have to require the sale to it or to a purchaser designated by it of any part of the property subject to the lien of the Mortgage, the Trustee, upon request

of the Railroad Company, shall release the property so taken or sold upon the Trustee's being furnished with an Opinion of Counsel to the effect that such part of the property subject to the lien of the Mortgage has been lawfully taken or sold as aforesaid. The aforesaid Opinion of Counsel shall state the amount of proceeds received or to be received for the property so taken or sold. Subject to the provisions of Section 4 of this Article XI, the proceeds of all property so taken or sold shall be deposited with the Trustee.

SECTION 6. In order to confirm, secure or clear (of record or otherwise) the prior right, charge, lien or title with respect to Equipment securing any Equipment Obligation hereafter created under reservation of right set forth in connection with the granting clauses of the Mortgage, the Trustee shall, upon compliance with the subsequent provisions of this Section 6, either confirm as to such Equipment the subordination of the lien of the Mortgage to such prior right, charge, lien or title, or release such Equipment from the lien of the Mortgage.

Prior to any such confirmation of subordination or release there shall be delivered to the Trustee a Certified Resolution requesting such action by the Trustee and an Officers' Certificate which shall describe the Equipment as to which a confirmation of subordination or a release is requested, shall describe the Equipment Obligation to be secured by a prior right, charge, lien or title thereon, shall state that such Equipment was acquired or constructed for the use of the Railroad Company within two years preceding the date of such Certificate, and shall state that none of said Equipment has theretofore been Bonded or Otherwise Financed.

There shall also be furnished to the Trustee an Opinion of Counsel and the instrument or instruments to be executed and delivered by the Trustee in order to effect the requested

confirmation of subordination or release. Such Opinion of Counsel shall approve the form of the instrument or instruments furnished therewith and shall express the opinion that, after the execution and delivery by the Trustee of such confirmation of subordination or release, the lien of the Mortgage will continue to attach to all right, title or interest of the Railroad Company then or thereafter existing with respect to the Equipment described in the Certificate, subject only to the prior right, charge, lien or title of the Equipment Obligations therein described, and to Permitted Encumbrances; but such expression of opinion may be predicated upon the execution and delivery of other instruments in addition to those specified above, or the taking of other action, in which case the Railroad Company shall cause such other instruments to be executed and delivered or such other action to be taken.

SECTION 7. Unless an Event of Default shall have occurred and be continuing, all moneys held by the Trustee under this Article XI, at the option of the Railroad Company:

(a) May be withdrawn by the Railroad Company upon its written Application, accompanied by a Certified Resolution authorizing such Application, in an amount equal to the Gross Expenditures with respect to Additions and Betterments acquired or constructed after the date of the deposit of the moneys desired to be withdrawn, provided such Expenditures have not been Bonded or Otherwise Financed; but only upon delivery to the Trustee of an Officers' Certificate, dated not more than 30 days prior to the delivery thereof, containing a description in reasonable detail of the property constituting the Additions and Betterments represented by such Gross Expenditures and a statement of the amount of such Gross Expenditures, that no part of such Gross Expenditures has theretofore been Bonded or Otherwise Financed, and that no Event of Default has occurred and is continuing. There shall be delivered to the Trustee, accom-

panying said Application, deeds and instruments of transfer and an Opinion of Counsel of the character required in clauses (f) and (h) (2) of Part B of Section 3 of this Article XI.

(b) May be withdrawn by the Railroad Company upon its written Application, accompanied by a Certified Resolution authorizing such Application, in an amount equal to 133⅓% of the principal amount of Bonds to the authentication and delivery of which the Railroad Company would then be entitled on account of Bondable Expenditures under the provisions of Section 2 of Article III. On any such Application the Railroad Company shall comply with all applicable provisions of Section 2 of Article III relating to the authentication and delivery of Bonds and the provisions of Section 8 of Article III, except that it shall not be required to comply with any of the provisions of clause (f) of Section 2 of Article III or Section 8 of Article III other than clauses (d) (4) and (e) of said Section 8. Any withdrawal of cash under this paragraph shall be in lieu of the right of the Railroad Company to the authentication and delivery of Bonds on account of such Bondable Expenditures.

(c) May be withdrawn by the Railroad Company upon its written Application in an amount not exceeding the principal amount or the cost (exclusive of interest) to the Railroad Company, whichever is less, of any Bonds (not theretofore Bonded, or acquired, retired, cancelled or paid through the operation of any sinking fund or analogous fund established pursuant to the Mortgage or pursuant to the General Mortgage) theretofore authenticated and delivered under the Mortgage which shall have been cancelled or surrendered to the Trustee for cancellation, but only upon delivery to the Trustee of

(1) an Officers' Certificate describing the Bonds the cancellation or surrender for cancellation of which forms the basis for the proposed withdrawal of cash, stating

the cost thereof (exclusive of interest) to the Railroad Company, and stating that said Bonds have theretofore been duly issued and outstanding and reacquired by the Railroad Company, that none of said Bonds has theretofore been Bonded, or acquired, retired, cancelled or paid through the operation of any sinking fund or analogous fund established pursuant to the Mortgage or pursuant to the General Mortgage, and that no Event of Default has occurred and is continuing; and

(2) the particular Bonds together with all appropriate coupons, if any, appertaining thereto.

(d) May be applied, upon the written request of the Railroad Company, signed by its President or a Vice President, accompanied by a Certified Resolution authorizing such request, to the payment at maturity or to the redemption of Bonds then outstanding of any series determined by said Resolution. Any such request of the Railroad Company for the application of moneys pursuant to this clause (d) shall also be accompanied by an Officers' Certificate stating that no Event of Default has occurred and is continuing.

The Railroad Company covenants that whenever any redemption of Bonds shall be applied for under the provisions of clause (d) of this Section 7, it will take all action necessary, or authorize the Trustee to take all action necessary, to redeem such Bonds at the earliest applicable redemption date, and will deposit with Trustee on or before the date fixed for redemption additional moneys sufficient to pay the premium and all accrued and unpaid interest on the Bonds so to be redeemed to the date so fixed for redemption.

If and when the Railroad Company shall so request by Certified Resolution filed with the Trustee, provided no Event of Default shall have occurred and then be continuing, any moneys at the time held under this Article XI by the Trustee shall be invested by it in such direct obligations of the United States of America maturing within 2 years as shall be speci-

fied in such Resolution. Such obligations shall be held by the Trustee in lieu of the moneys invested therein subject to its absolute right to liquidate such investment in such manner and at such time or times as, in the exercise of its discretion, it deems to be advisable. The Railroad Company covenants that upon demand by the Trustee it will replace all moneys lost through any investment made and liquidated as by this Section 7 contemplated, and will pay or reimburse the Trustee for all accrued interest, commissions and expense paid or incurred in connection with the acquisition and liquidation of such investment. The Trustee shall have the right and duty to receive all amounts paid on account of any investment made by it as hereby contemplated, including all interest payments, shall retain such interest payments pending liquidation of such investment, and after such liquidation shall retain so much of such interest payments as may be necessary to replace any loss of moneys suffered or to pay or reimburse itself for any accrued interest, commissions or expense paid or incurred in connection with the acquisition and liquidation of such investment and not replaced, paid or reimbursed by the Railroad Company as above provided, and shall pay over any balance of such interest payments to the Railroad Company.

SECTION 8. The Trustee shall not be required under any of the provisions of this Article XI to release any part of the property subject to the lien of the Mortgage from the lien hereof at any time when an Event of Default shall have occurred and be continuing; but, notwithstanding any such Event of Default, the Trustee may do so upon compliance by the Railroad Company with the provisions of Section 3 of this Article XI except clause (c)(5) of Part B of said Section 3, if the Trustee in its discretion shall deem that such release will not adversely affect the interests of the Bondholders, or if the holders of a majority in principal amount of the Outstanding Bonds shall request the Trustee so to do.

SECTION 9. In no event shall any purchaser or purchasers of any part of the mortgaged property sold or disposed of under any provisions of this Article XI be required to ascertain the authority of the Trustee to execute any release, to see to the application of the purchase money or to inquire as to any facts required by the provisions hereof for the exercise of such authority.

SECTION 10. Notwithstanding any of the provisions of the Mortgage, the Trustee shall release, either before or after an Event of Default shall have occurred, the lien of the Mortgage as to any property or properties or part or parts thereof at any time subject thereto, and cause such property or properties to revert to the Railroad Company free and clear of such lien; provided, however, that, prior to the release of any such property under this Section 10, there shall have been delivered to the Trustee in each case:

(a) a request (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 75% in aggregate principal amount of all Outstanding Bonds, to release the property in question and the designation by such holders of the independent railroad expert referred to in subsection (c) below; or

(b) the record showing that the holders of not less than 85% in aggregate principal amount of all Outstanding Bonds represented at a Bondholders' Meeting, called and conducted pursuant to Article XIV hereof, at which not less than 50% in aggregate principal amount of all Outstanding Bonds were represented, requested the release of the property in question and designated the independent railroad expert referred to in subsection (c) below; and

(c) in either case, a report of the independent railroad expert designated pursuant to either subsection (a) or subsection (b) above, to the effect that such property is no longer of value to the holders of Outstanding Bonds and that, in his opinion, a proper allocation of revenues and expenses thereto then shows, and in the future may reasonably be expected to show, a loss.

ARTICLE XII

CONSOLIDATION, MERGER, CONVEYANCE AND LEASE

SECTION 1. Nothing in the Mortgage or in any Bond shall prevent the consolidation or merger of the Railroad Company with or into any other corporation lawfully entitled to acquire and operate the same or successive consolidations or mergers to which the Railroad Company or its successor or successors shall be a party or parties, or shall prevent any conveyance or lease, subject to the continuing lien of the Mortgage, of all or substantially all of the mortgaged property to any such other corporation; provided, however, that:

(a) Every such consolidation, merger, conveyance or lease shall be on such terms as shall fully preserve the lien and security of the Mortgage and the rights and powers of the Trustee and of the Bondholders hereunder.

(b) Any such lease shall be made expressly subject to immediate termination by the Trustee at any time upon the occurrence of an Event of Default and during the continuance thereof, and also by the purchaser of the property so leased upon any sale thereof whether such sale be made under the power of sale hereby conferred or under judicial proceedings.

(c) Upon any such consolidation, merger, conveyance or lease, the successor corporation or the lessee corporation, as the case may be, shall expressly assume the due and punctual payment of the principal of and interest on all of the Bonds according to their tenor and purport, and the due and punctual performance of all of the terms, covenants and conditions of the Mortgage required to be kept, preserved and performed by the Railroad Company.

(d) In the event of any such consolidation, merger or conveyance, the successor corporation, subject to the exceptions provided in Section 2 of this Article XII, shall expressly grant and convey to the Trustee, as further

security for all Bonds issued hereunder, and shall subject to the lien of the Mortgage, all of its property and franchises then owned and which it may thereafter acquire of the character and kind which, under the terms of the Mortgage, are required to be subjected to the lien thereof, all as fully as though such consolidation, merger or sale had not taken place and such property and franchises had been acquired by the Railroad Company.

Compliance with the foregoing requirements of this Section 1 shall be evidenced by a supplemental indenture.

For the purposes of this Article XII, the term "conveyance" shall mean any sale, conveyance or transfer, the term "successor corporation" shall mean any corporation resulting from any such consolidation or merger or any corporation to which such conveyance shall be made, and the term "lessee corporation" shall mean any corporation to which any such lease shall be made.

The conditions contained in this Section 1 shall not be construed as requiring that in the event of any such consolidation, merger, conveyance or lease a separate income account shall thereafter be maintained in respect of the operation of the properties subject to the lien of the Mortgage, but in lieu thereof provisions may be made which shall be equitable and practical with respect to the apportionment of the revenues and expenses of any such successor or lessee corporation to establish a basis for the determination and application of Available Net Income as required under Article V or for the purpose of determining and applying funds to the payment of interest on any contingent interest bonds of the Railroad Company or for the purpose of determining the amount of payments required to be made into or out of the Additions and Betterments Fund or the Reserve and Retirement Fund or for any other purpose fulfilling the provisions

and conditions of the Mortgage; provided that any such provisions shall be approved by the Interstate Commerce Commission or other governmental body having jurisdiction of the consolidation, merger, conveyance or lease, and, unless such Commission or other governmental body shall find that no material alteration of the rights of the Bondholders is thereby effected and shall so determine, they shall also be consented to or approved by the holders of a majority in principal amount of the Outstanding Bonds, in the manner provided in Article XIV.

SECTION 2. In the event that under the provisions of Section 1 of this Article XII there shall be a consolidation or merger of the Railroad Company with or into, or a conveyance by the Railroad Company of all or substantially all of the mortgaged property to, a successor corporation, then the successor corporation shall if it shall have been a Railroad Subsidiary immediately prior thereto, and may but need not if it shall have been a Class I Carrier (not a Railroad Subsidiary) immediately prior thereto, make an express grant to the Trustee of its property and franchises as required by paragraph (d) of Section 1 of this Article XII, and in the absence of such express grant by any such successor corporation (except a Railroad Subsidiary), the Mortgage shall not by reason of such consolidation, merger or conveyance constitute and become a lien upon, and the term "mortgaged property" as herein used shall not include or comprise:

(i) Any property or franchise which, prior to such consolidation, merger or conveyance, was owned by any corporation with or into which the Railroad Company or any successor corporation may be consolidated or merged or to which the Railroad Company or any successor corporation may make any such conveyance, or any property or franchises which theretofore may have been acquired

by the Railroad Company or any successor corporation and which prior to such consolidation, merger or conveyance were not subject to the lien of the Mortgage; or

(ii) Any property or franchise which may be purchased, constructed or otherwise acquired by any successor corporation after the date of any such consolidation, merger or conveyance, excepting only the property, rights and franchises referred to in clauses (a) and (b) of this Section 2, which, as and when purchased, constructed, or otherwise acquired by such successor corporation, shall be and become subject to the lien of the Mortgage.

Any supplemental indenture provided for in Section 1 of this Article XII which, by reason of the provisions of this Section 2, is not required to contain an express grant by the successor corporation of all of its property and franchises pursuant to paragraph (d) of said Section 1, shall contain:

(a) A grant by such successor corporation confirming the lien of the Mortgage upon the mortgaged property and subjecting to the lien and operation hereof, as fully as though such consolidation, merger or conveyance had not taken place and the same had been acquired or made by the Railroad Company:

(1) all property, rights and franchises thereafter constructed or acquired which shall be appurtenant or incident to any property that is subject to the lien of the Mortgage at the time of such consolidation, merger or conveyance;

(2) all property, rights and franchises thereafter constructed or acquired in whole or in part by the issuance of Bonds, General Mortgage Bonds or Prior Lien Bonds;

(3) all property, rights and franchises thereafter constructed or acquired with cash then or at any time thereafter held by the Trustee or by the trustee

under the General Mortgage or under any mortgage securing Prior Lien Bonds, or in exchange for property released from the lien thereof, or the acquisition or construction of which has been or shall be made the basis for the withdrawal of cash or the issuance of Bonds or General Mortgage Bonds;

(4) all betterments, extensions, improvements and additions of, to, upon and for the property, rights and franchises subject to the lien of the Mortgage;

(5) all repairs, renewals, replacements, substitutions and alterations of, to, upon or for such property, rights and franchises;

(6) all property, rights and franchises thereafter acquired pursuant to any covenant herein contained which may be purchased, constructed or otherwise acquired by such successor corporation from and after the date of such consolidation, merger or conveyance, as the case may be; and

(7) all other property of every kind and description, whether real, personal or mixed, whether tangible or intangible, and whether consisting of present or future interests, thereafter constructed or acquired by such successor corporation which is appurtenant to or used in connection with any property acquired by the issuance of Bonds, General Mortgage Bonds or Prior Lien Bonds or acquired with cash then or at any time thereafter held by the Trustee or by the trustee under the General Mortgage or under any mortgage securing Prior Lien Bonds;

(b) A covenant on the part of such successor corporation that all property and franchises thereafter acquired by it and necessary to the full and complete performance of any covenant herein contained relating to the deposit of securities, to the maintenance and upkeep of the mortgaged property, to the supply of adequate and efficient equipment to the lines of railroad included

therein, to the making of all needful and proper repairs, renewals, replacements, substitutions and alterations and to the preservation and keeping in full effect of all rights, franchises and privileges subject to the lien hereof, or of any other covenant herein, shall be conclusively deemed and taken to be acquired by it in performance of such covenant and to have become subject to the lien of the Mortgage; and

(c) A covenant by such successor corporation to keep the mortgaged property, so far as practicable, readily identifiable, and a stipulation that the Trustee by accepting or joining in such supplemental mortgage, shall not be deemed impliedly to have waived any rights it would otherwise have had.

Section 3. Nothing contained in the Mortgage or in any Bond shall prevent the Railroad Company from merging into itself or acquiring by conveyance all or any part of the property of any other corporation; provided that in case the Railroad Company shall acquire by any such merger or conveyance all or substantially all of the properties of any other corporation which shall be a Class I Carrier, the properties so acquired by the Railroad Company shall not become subject to the lien of the Mortgage unless such other corporation shall have been a Railroad Subsidiary immediately preceding such merger or conveyance; or unless such properties were (a) acquired with cash held by the Trustee under any provision of the Mortgage or by the trustee under the General Mortgage or any mortgage securing Prior Lien Bonds, (b) acquired in exchange for property released from the lien of the Mortgage, (c) made the basis for the authentication and delivery of Bonds or General Mortgage Bonds or for the withdrawal of cash held by the Trustee under any provision of the Mortgage or by the trustee of the General Mortgage, (d) acquired pursuant to any covenant contained in the Mortgage,

(e) acquired in whole or in part by the issuance of Bonds, General Mortgage Bonds or Prior Lien Bonds, or (f) acquired by expenditures from the Additions and Betterments Fund or the Reserve and Retirement Fund; or unless the Railroad Company shall file with the Trustee a Certified Resolution determining that the lien of the Mortgage shall attach to the properties so acquired from such Class I Carrier.

Section 4. In case the Railroad Company shall be consolidated with or merged into or shall make a conveyance to any other corporation as permitted and upon the terms provided in Section 1 of this Article XII, the successor corporation, upon executing and delivering to the Trustee, and causing to be recorded, the supplemental indenture provided for in Section 1 of this Article XII, shall succeed to and be substituted for the Railroad Company with the same force and effect as if it had been named in and had executed the Mortgage as the party of the first part hereto, and shall have and possess and may exercise, subject to the terms and conditions of the Mortgage, each and every power, authority and right herein reserved to or conferred upon the Railroad Company; and thereupon such successor corporation may cause to be signed and may issue, either in its own name or in the name of the party of the first part, and under the corporate seal of either the party of the first part or the successor corporation, any and all Bonds which shall not have been signed theretofore by the party of the first part, and delivered to the Trustee; and the Trustee, upon the order of such successor corporation, and subject to all the terms, conditions and limitations prescribed in the Mortgage, shall authenticate any and all Bonds which previously shall have been signed by the party of the first part, and delivered to the Trustee for authentication, and any Bonds which such successor corporation shall thereafter cause to be signed and delivered to

the Trustee for such purpose, and deliver the same to such successor corporation or upon its order.

Section 5. All Bonds issued by any successor corporation shall have the same legal rank and security in all respects as the Bonds theretofore issued by the Railroad Company in accordance with the terms of the Mortgage. In case of any such consolidation, merger or conveyance such changes in phraseology and form (but not in substance) may be made in the Bonds and coupons thereafter to be issued as may be appropriate to reflect any such consolidation, merger or conveyance.

Section 6. For every purpose of the Mortgage, any act or proceeding by any provision of the Mortgage authorized, required or permitted to be done or performed by the stockholders or by any board or officer of the Railroad Company shall and may be done and performed, with like force and effect, by the stockholders or by the like board or officer of any successor corporation, subject, however, to the provisions of Section 4 of this Article XII.

Section 7. The Railroad Company covenants and agrees that no consolidation or merger and no conveyance or lease of the mortgaged property as a whole or substantially as a whole, to which the Railroad Company or any successor corporation shall be a party, shall be made or effected unless the terms, covenants and conditions contained in this Article XII shall have been complied with and observed by the Railroad Company or the successor corporation, as the case may be.

ARTICLE XIII

Concerning the Bondholders

Section 1. Whenever any action is taken by the Bondholders in the exercise of any or all of the following powers:

(a) To consent to an extension of the time or times of payment of the principal, either before or after the principal is due, of the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, subject to the provisions of Section 3 of Article XIX;

(b) To consent to an extension of the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 5 years after such interest is due, but in no event beyond the original or extended date or dates for the payment of the principal of such Bonds, subject to the provisions of Section 3 of Article XIX;

(c) To give any notice to the Railroad Company or to the Trustee, or to give any directions to the Trustee, or to consent to the waiving of any default hereunder and its consequences, or to take any other action authorized to be taken by Bondholders pursuant to any of the provisions of Article XVI;

(d) To remove the Trustee and appoint a successor trustee pursuant to the provisions of Article XV;

(e) To consent to the execution of an indenture or indentures supplemental hereto pursuant to the provisions of Section 2 of Article XIX;

(f) To terminate, either before or after an Event of Default shall have occurred, the lien of the Mortgage as

to any property or properties or part or parts thereof at any time subject thereto and cause the same to revert to the Railroad Company free and clear of such lien upon such conditions as such holders may direct pursuant to the provisions of Section 10 of Article XI; or

(g) To take any other action or give any other consent authorized to be taken or given by or on behalf of the holders of any specified percentage or portion of the aggregate principal amount of the Bonds under any other provision of the Mortgage or under applicable law or, if no percentage is specified, by the holders of not less than a majority in principal amount of all Outstanding Bonds;

the fact that at the time of taking any such action the holders of a specified percentage in aggregate principal amount of Bonds have joined therein may be evidenced (i) by an instrument or any number of instruments of similar tenor executed by such holders in person or by agent or proxy appointed in writing, or (ii) by the record of the holders of Bonds voting in favor thereof in person or by agent or proxy appointed in writing at any meeting of Bondholders duly called and held in accordance with the provisions of Article XIV hereof, or (iii) by a combination of such instrument or instruments and any such record of such a meeting of Bondholders.

Section 2. Proof of the execution of any instrument by the holder of any Bond or his agent or proxy, and proof of the holding by any person of any Bond, shall be sufficient if made in the following manner:

(a) The fact and date of the execution by any such person of any instrument may be proved by the certificate of any notary public or other officer authorized to take acknowledgements of deeds in the jurisdiction in which he purports to act that the person executing such instrument acknowl-

edged to him the execution thereof, or by an affidavit of a witness to such execution sworn to before any such notary or other such officer.

(b) The fact of the holding by any person of coupon Bonds transferable by delivery, and the amounts and distinctive numbers of such Bonds and the date of his holding the same, may be proved by the production of the Bonds or by a certificate executed by any trust company, bank or banker satisfactory to the Trustee wherever situated, if such certificate shall be deemed by the Trustee to be satisfactory. Each such certificate shall be dated and shall state that on the date thereof a Bond bearing a specified serial number was deposited with or exhibited to such trust company, bank or banker by the person named in such certificate who claimed to be the owner of such Bond. Any such certificate may be issued in respect of one or more Bonds specified therein. The holding by the person named in any such certificate of any Bond specified therein shall be presumed to continue after the date thereof set forth in such certificate until and unless (1) there shall be produced another certificate issued in respect of the same Bond showing the holding thereof by another person at a later date or (2) the Bond specified in such certificate (or coupon Bond or Bonds in exchange for which such Bond shall have been surrendered) shall be produced by another person or (3) the Bond specified in such certificate shall then be registered as to principal in the name of another person or shall have been surrendered in exchange for a registered Bond without coupons issued in the name of another person.

(c) The ownership of coupon Bonds registered as to principal or of registered Bonds without coupons shall be proved by the registers of such Bonds, or by a certificate of the registrar thereof.

The Trustee may require such additional proof of any matter referred to in this Section 2 as it shall deem necessary.

The record of any meeting of Bondholders shall be proved in the manner provided in Section 6 of Article XIV hereof.

Section 3. The Railroad Company, the Trustee, any paying agent and any bond registrar may deem and treat the bearer of any coupon Bond which shall not at the time be registered as to principal as hereinbefore authorized, and the bearer of any coupon for interest (whether fixed or contingent) on any Bond whether such Bond shall be registered as to principal or not, as the absolute owner of such Bond or coupon, as the case may be (whether or not such Bond or coupon shall have become due and payable), for the purpose of receiving payment thereof and for all other purposes; and neither the Railroad Company nor the Trustee nor any paying agent nor any bond registrar shall be bound by any notice to the contrary.

The Railroad Company, the Trustee, any paying agent and any bond registrar may deem and treat the person in whose name any registered Bond without coupons shall be registered at any given time upon the books of the Railroad Company, as hereinbefore provided, as the absolute owner of such Bond at that time (whether or not the same shall have become due and payable) for the purpose of receiving any payment then being made of or on account of the principal, premium if any, or interest on such Bond and for all other purposes; and may deem and treat the person in whose name any coupon Bond shall be registered as to principal at any given time as the absolute owner thereof at that time (whether or not the same shall have become due and payable) for the purpose of receiving payment of or on account of the principal of, or premium, if any, on such Bond, and for all other

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Article XIII
Sections 3 and 4

purposes except to receive payment of any interest represented by outstanding coupons; and neither the Railroad Company nor the Trustee nor any paying agent nor any bond registrar shall be bound by any notice to the contrary. All such payments so made to any such registered holder for the time being, or upon his order, shall be valid, and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability for moneys payable upon any such Bond.

SECTION 4. In determining whether the holders of the requisite aggregate principal amount of Bonds have concurred in any demand, request, notice, consent or other action under the Mortgage, Bonds which are owned by the Railroad Company or any other obligor on the Bonds or by any person, firm or corporation directly or indirectly controlling or controlled by or under direct or indirect common control with the Railroad Company or any other such obligor, shall be disregarded and deemed not to be outstanding for the purpose of any such determination, provided that the Trustee shall be protected in relying on any such demand, request, notice, consent or other action except as to Bonds which the Trustee knows to be so owned. Bonds so owned which have been pledged in good faith may be regarded as outstanding for the purpose of such determination if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds and that the pledgee is not a person, firm or corporation directly or indirectly controlling or controlled by or under direct or indirect common control with the Railroad Company or any other obligor on the Bonds. In case of a dispute as to such right, any decision by the Trustee taken on the advice of counsel shall be full protection to the Trustee.

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Article XIII
Sections 4 and 5

For the purpose of this Section 4, the terms "control," "controlling" and "controlled" shall mean the right to vote a majority of the outstanding shares of capital stock having full voting rights.

SECTION 5. At any time prior to (but not after) the taking of any action by the holders of a specified percentage in aggregate principal amount of the Bonds specified in the Mortgage in connection with such action, any holder of a Bond the serial number of which is shown to be included in the Bonds the holders of which have consented to join in such action, by filing written notice with the Trustee at its principal office and upon proof of holding as provided in Section 2 of this Article XIII, may revoke such consent so far as concerns such Bond. Except as aforesaid any such action taken by the holder of any Bond shall be conclusive and binding upon such holder and upon all future holders of such Bond, irrespective of whether or not any notation of such consent is made upon such Bond, and in any event any action taken pursuant to the Mortgage by the holders of the percentage in aggregate principal amount of the Bonds specified in the Mortgage in connection with such action shall be conclusively binding upon the Railroad Company, the Trustee and the holders of all Bonds.

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Article XIV
Sections 1 and 2

ARTICLE XIV

BONDHOLDERS' MEETINGS

SECTION 1. The Trustee may at any time call a meeting of Bondholders to take any action specified in Section 1 of Article XIII, to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of Bondholders, setting forth the time and place of such meeting and the action proposed to be taken at such meeting, shall be published at least once each week, for 4 successive weeks, in a Daily Newspaper in the Borough of Manhattan, City and State of New York, and in a Daily Newspaper in the City of Chicago, State of Illinois, the first publication in any such newspaper to be not less than 30 days nor more than 60 days prior to the date fixed for the meeting. A copy of such notice shall be mailed at least 30 days prior to the date fixed for the meeting to the registered holders of registered Bonds without coupons and of coupon Bonds registered as to principal at their last addresses as they shall appear upon the bond registry books, but neither failure to give such notice by mail nor any defect therein shall affect the validity of such meeting.

SECTION 2. In case at any time the Railroad Company pursuant to a resolution of its Board of Directors, or the holders of at least 10% in aggregate principal amount of the Outstanding Bonds, shall have requested the Trustee to call a meeting of Bondholders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have made the first publication of the notice of such meeting within 20 days after receipt of such request, then the Railroad Company or the holders of Outstanding Bonds in the amount above specified may determine the time and place for such meeting

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Article XIV
Sections 2, 3 and 4

and may call such meeting to take any action authorized in Section 1 of Article XIII, by publishing and mailing notice thereof as provided in Section 1 of this Article XIV.

SECTION 3. To be entitled to vote at any meeting of Bondholders a person shall be (a) a holder of coupon Bonds transferable by delivery, or (b) a registered holder of Bonds (whether the same be fully registered or registered only as to principal), or (c) a person appointed by an instrument in writing as proxy for a holder of coupon Bonds transferable by delivery or for a registered holder of Bonds (whether the same be fully registered or registered only as to principal). The only persons who shall be entitled to speak at any meeting of Bondholders shall be the persons entitled to vote at such meeting and their counsel and any representatives of the Trustee and its counsel and any representatives of the Railroad Company and its counsel.

SECTION 4. Notwithstanding any other provisions of the Mortgage, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Bondholders, in regard to proof of the holding of Bonds and of the appointment of proxies, and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidences of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem advisable. Except as otherwise permitted or required by any such regulations, the holding of Bonds shall be proved in the manner specified in Section 2 of Article XIII, and the appointment of any proxy shall be proved in the manner specified in said Section 2 or by having the signature of the person executing the proxy witnessed or guaranteed by any bank, bankers or trust company authorized by said Section 2 to certify to the holding of Bonds transferable by delivery.

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Article XIV
Sections 4, 5 and 6

The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Railroad Company or by Bondholders as provided in Section 2 of this Article XIV, in which case the Railroad Company or the Bondholders calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the holders of a majority in principal amount of Outstanding Bonds the holders of which shall be present or represented and entitled to vote at the meeting.

Subject to the provisions of Section 4 of Article XIII, at any meeting each Bondholder or proxy shall be entitled to one vote for each and every unit of the lowest principal amount of any of the Bonds then outstanding, in respect of which he is entitled to vote at the meeting; provided, however, that no vote shall be cast or counted at any meeting in respect of any Bond challenged as not outstanding and ruled by the chairman of the meeting to be not an Outstanding Bond. The chairman of the meeting shall have no right to vote other than by virtue of Outstanding Bonds held by him or instruments in writing as aforesaid duly designating him as the person to vote on behalf of other Bondholders.

SECTION 5. Any meeting of the Bondholders may be adjourned from time to time as and when, and to such time and place, as may be approved by a majority of the votes which the holders of Bonds at the time present or represented may be entitled to cast, irrespective of the aggregate principal amount of Bonds held by such holders; and the meeting may be held as so adjourned without further notice.

SECTION 6. The vote upon any proposal submitted at a meeting of Bondholders shall be by written ballots on which

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Article XIV
Sections 6 and 7

shall be subscribed the signatures of the holders of Bonds or their representatives by proxy and the serial number or numbers of the Bonds held or represented by them. The chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any proposal and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record in duplicate of the proceedings of each meeting of Bondholders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes cast on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was published as provided in Section 1 of this Article XIV. The record shall show the serial numbers of the Bonds voted for or against any proposal submitted at the meeting. The record shall be signed and verified by the permanent chairman and secretary of the meeting and one of the duplicates shall be delivered to the Railroad Company and the other to the Trustee to be preserved by the Trustee. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

SECTION 7. Nothing in this Article XIV contained shall be deemed or construed to authorize or permit, by reason of any call of a meeting of Bondholders or any rights expressly or impliedly conferred hereunder to make such call, any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the Bondholders under any of the provisions of the Mortgage or of the Bonds.

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Article XV
Section 1

ARTICLE XV

CONCERNING THE TRUSTEE

SECTION 1. The Trustee accepts the trusts hereby created upon the terms and conditions in this Article XV specified, to all of which the Railroad Company and the holders of the Bonds and coupons at any time outstanding, by their acceptance thereof, agree.

Whenever and so long as an Event of Default has occurred and is continuing, the Trustee shall exercise such of the powers vested in it by the Mortgage, or take such other action with respect to such default, as in its judgment is necessary or desirable for the protection of the interests of the holders of Bonds issued hereunder.

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

(a) Prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred

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

(2) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates, statements, reports or opinions furnished to the Trustee; but in the case of any such certificates, statements, reports or opinions which by any provision

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Section 1

hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of the Mortgage.

(b) The Trustee shall not be liable for any error of judgment made in good faith by a responsible officer of the Trustee, if such officer shall have been selected and continued in office in the exercise of due care, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

(c) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of not less than a majority in principal amount (or such other percentage of the principal amount specifically prescribed by the Mortgage for a particular action) of the Outstanding Bonds relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under the Mortgage.

(d) In the case of any action to be taken or suffered by the Trustee, wherein the Mortgage specifically authorizes such action notwithstanding the continuance of an Event of Default, nevertheless the Trustee may rely on certificates and opinions furnished to it, but shall be under the same duty to examine the same to determine whether or not they conform to the requirements of the Mortgage, as though an Event of Default had not occurred and been continuing.

The Trustee may rely and shall be protected in acting upon any Certified Resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, direction, bond, coupon or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

Any request, direction, order or demand of the Railroad Company mentioned herein shall be sufficiently evidenced by an instrument signed in the name of the Railroad Company by the President or a Vice President and the Secretary or an Assistant Secretary, unless other evidence in respect thereof be herein specifically prescribed.

The Trustee may consult with counsel (including counsel in its employ) and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

The Trustee shall be under no obligation to exercise any of the trusts or powers hereof at the request, order or direction of any of the Bondholders, pursuant to the provisions of the Mortgage, unless such Bondholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which may be incurred therein or thereby.

The Trustee shall not be personally liable in case of entry by it upon the mortgaged property for debts contracted or liability or damages incurred in the management or operation of said property.

The Trustee shall not be liable for any action taken by it in good faith and believed by it, in the exercise of due care, to be authorized or within the discretion or power conferred upon it by the Mortgage.

SECTION 2. None of the provisions contained in the Mortgage shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers; but the Trustee, in its sole discretion and in order

to preserve the mortgaged property, may advance moneys for the purpose of paying taxes, rentals or otherwise, and for such advances, together with interest thereon at the rate of 4% per annum, the Trustee shall have a lien on the mortgaged property prior to any claim of the Bondholders, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

SECTION 3. Should any taxes or other governmental charges be imposed upon the Trustee, in its capacity as Trustee hereunder, which it may be required to pay under any present or future law of the United States of America or of any other authority therein having jurisdiction, the Trustee shall be reimbursed and indemnified therefor by the Railroad Company, and any liability incurred or amounts paid by the Trustee in respect of any such taxes or other governmental charges, until paid, shall constitute a lien upon the mortgaged property prior to any claim of the holders of Bonds, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

SECTION 4. Except as herein otherwise provided, any notice or demand which by any provision of the Mortgage is required or permitted to be given or served by the Trustee or any other person on the Railroad Company, shall be deemed to have been sufficiently given and served for all purposes by being deposited, postage prepaid, in a United States Post Office letter-box or mail chute, addressed (until another address is filed by the Railroad Company with the Trustee and thereafter if addressed to such new address) as follows: Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Chicago, Illinois. Any notice, request or demand by any Bondholder to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or made at the principal office of the Trustee.

SECTION 5. The Trustee shall not be bound to recognize any person as the holder of a Bond outstanding hereunder unless and until the Bond is submitted to the Trustee for inspection if required, and the title thereto established to the satisfaction of the Trustee.

Except as provided in Section 7 of Article XI, the Trustee shall be under no duty to invest any moneys paid to or deposited with it or to its credit pursuant to any of the provisions of the Mortgage, and shall not be liable for interest on any moneys during the period such moneys remain on deposit with it, except such interest as the Trustee may agree with the Railroad Company to pay.

Any action at any time taken by the Trustee pursuant to or with respect to the Mortgage at the request or with the consent or approval (express or implied) of any person who at the time is the holder of any Bond secured hereby, shall be conclusive and binding upon all future holders of such Bond.

All rights of action under the Mortgage may be enforced by the Trustee without the possession of any of the Bonds or the production thereof on the trial or other proceedings relative thereto.

SECTION 6. The recitals contained herein and in the Bonds shall be taken as the statements of the Railroad Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the value of the mortgaged property, or as to the title of the Railroad Company thereto, or as to the validity or sufficiency of the Mortgage or of the Bonds or coupons, except as contained in the Trustee's certificate of authentication endorsed on the Bonds. The Trustee shall not be accountable for the use or application by the Railroad Company of any of the Bonds or of the proceeds of such Bonds.

SECTION 7. The Trustee or any paying agent or bond registrar, in its individual or any other capacity, may become the owner or pledgee of Bonds or coupons with the same rights it would have if it were not such Trustee, paying agent or bond registrar.

SECTION 8. Subject to the provisions of Section 4 of Article XVIII hereof, all moneys received by the Trustee hereunder, until used or applied as herein provided, and all moneys received by the Trustee as paying agent in respect of the Bonds of any series, shall be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law. So long as no Event of Default shall have occurred and be continuing, any interest allowed on any such moneys shall be paid from time to time to or upon the written order of the Railroad Company, signed by its President or any Vice President.

SECTION 9. The Railroad Company covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to receive, reasonable compensation (which shall not be limited by the statutes of any state relating to the compensation of a trustee of an express trust), and the Railroad Company will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any of the provisions of the Mortgage (including the reasonable compensation and the expenses and disbursements of its counsel and of all persons not regularly in its employ) except any such expense, disbursement and advance as may arise from its negligence or bad faith. The Railroad Company also covenants to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on the part of the Trustee, arising out of or in connection with the acceptance or administration of the

trusts created by the Mortgage, including the costs and expenses of defending itself against any claim of liability in the premises. The obligations of the Railroad Company under this Section 9 to compensate and indemnify the Trustee and to pay or reimburse the Trustee for expenses, disbursements and advances shall constitute additional indebtedness hereunder and shall be secured by the lien hereof prior to the claims of the holders of Bonds upon the mortgaged property, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

SECTION 10. Whenever in the administration of the trusts created by the Mortgage the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Trustee, and such Certificate shall be full warrant to the Trustee for any action taken, suffered or omitted by it under the provisions of the Mortgage upon the faith thereof.

SECTION 11. Any company into which the Trustee or any successor to it in the trusts created by the Mortgage may be merged, or with which it or any such successor may be consolidated, or any company resulting from any merger, conversion, or consolidation to which the Trustee or any such successor shall be a party, provided such company shall be a trust company or a banking corporation in good standing organized under the laws of the United States or of any State, and shall have an office in the City of Chicago, Illinois, or in the Borough of Manhattan, City of New York, New York, and shall have a capital and surplus aggregating at least $5,000,000, shall be the successor trustee under the Mort-

gage without the execution or filing of any paper or the performance of any further act on the part of the parties hereto. In case any of the Bonds shall have been authenticated but not delivered, any such successor trustee may adopt the certificate of authentication of Continental Illinois National Bank and Trust Company of Chicago, or of any successor to it, as Trustee hereunder, and deliver the same so authenticated; and in case any of the Bonds shall not have been authenticated, any such successor trustee may authenticate such Bonds either in the name of any predecessor trustee or in its own name as such successor trustee, and in all such cases such certificate shall have the same full force which it is anywhere in the Bonds or the Mortgage provided that the certificate of the Trustee shall have; provided, however, that the right to authenticate Bonds in the name of Continental Illinois National Bank and Trust Company of Chicago shall extend only to its successor by merger, conversion or consolidation.

SECTION 12. The Trustee or any successor trustee may at any time resign and be discharged from the trusts hereby created by giving to the Railroad Company written notice of such resignation and specifying a date upon which such resignation shall take effect. Notice of such resignation shall be published once each week for 2 successive weeks, on days not more than 90 days nor less than 60 days prior to the date so specified, in a Daily Newspaper in the Borough of Manhattan, City of New York, New York, and in a Daily Newspaper in the City of Chicago, Illinois, and such resignation shall take effect on the date specified in said notice or on the date of the appointment of a successor trustee as hereinafter provided, whichever shall be earlier.

The Trustee or any successor trustee may be removed with or without cause at any time by the holders of a majority in

principal amount of the Outstanding Bonds by the delivery to the Trustee or successor trustee, as the case may be, of an instrument or concurrent instruments signed by such holders or their attorneys-in-fact duly authorized. Any trustee who shall resign or be so removed shall be entitled to its reasonable compensation then accrued and unpaid and to reimbursement for proper expenses theretofore incurred and not previously reimbursed.

SECTION 13. In case at any time the Trustee or any successor trustee shall resign or shall be removed or shall become incapable of acting or shall be adjudged bankrupt or insolvent, or if a receiver of the Trustee or any successor, or of its property, shall be appointed, or if any public officer in the exercise of his official powers shall take charge or control of the Trustee or any successor, or its property or affairs, or if a vacancy shall arise in the trusteeship under the Mortgage from any cause, a successor trustee or successor trustees may be appointed by the holders of a majority in principal amount of the Outstanding Bonds, by an instrument or concurrent instruments in writing signed and acknowledged by such holders or their attorneys-in-fact duly authorized and delivered to such new trustee hereunder, notification being given to the Railroad Company and the predecessor trustee; provided, however, that until a new trustee shall be appointed by the holders of Outstanding Bonds as aforesaid and shall accept such appointment, the Railroad Company, by an instrument duly executed and acknowledged by its proper officers, by authority of its Board of Directors, shall appoint a trustee to fill the vacancy until the appointment of a new trustee by such holders as herein authorized. The Railroad Company shall publish notice of any such appointment made by it or by the holders of Outstanding Bonds as aforesaid once each week for two successive weeks in a Daily News-

paper in the Borough of Manhattan, City of New York, New York, and in a Daily Newspaper in the City of Chicago, Illinois, the first publication in each such Daily Newspaper to be within 10 days after such appointment has been made. Any new trustee appointed by the Railroad Company shall, immediately and without further act, be superseded by a trustee appointed by the holders of Outstanding Bonds in the manner above provided if the appointment by such holders be made within one year after the first publication of the notice of the appointment of the new trustee by the Railroad Company.

Every trustee appointed under any of the provisions of this Section 13 shall be a trust company or a banking corporation in good standing organized under the laws of the United States or of any State, having an office in the City of Chicago, Illinois, or in the Borough of Manhattan, City of New York, New York, and having a capital and surplus aggregating at least $5,000,000.

If in a proper case no appointment of a successor trustee shall be made by the holders of Outstanding Bonds pursuant to the foregoing provisions of this Section 13 within 6 months after the happening of any of the events set forth in the first paragraph of this Section 13, the holder of any Bond outstanding hereunder or any retiring trustee hereunder may apply to any court of competent jurisdiction to appoint a successor trustee. Said court may thereupon, after such notice, if any, as said court may deem proper and prescribe, appoint a successor trustee. Any trustee appointed by the Railroad Company shall, immediately and without further act, be superseded by a trustee appointed by any such court in the manner above provided, if such appointment by such court be made within 18 months after the first publication of the notice of the appointment of the new

trustee by the Railroad Company. If application shall be made to any such court within such 18 months' period in this paragraph provided, the holders of Outstanding Bonds shall have no power to appoint a trustee as in this Section 13 provided unless such application shall be dismissed within one year after the first publication of the notice of the appointment of a new trustee by the Railroad Company.

Any successor trustee appointed hereunder shall execute, acknowledge and deliver to the predecessor trustee hereunder and to the Railroad Company an instrument in writing accepting such appointment hereunder, and thereupon said successor trustee, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor in trust hereunder, with like effect as if originally named as trustee herein; but the retiring trustee, nevertheless, on the written request of the Railroad Company or of the successor trustee, and upon payment of its unpaid compensation and expenses, if any, shall execute, acknowledge and deliver such instruments of conveyance and further assurances and do such other things as reasonably may be required for more fully and certainly vesting and confirming in said successor trustee all the right, title and interest of the retiring trustee in and to the mortgaged property and said rights, powers, trusts, duties and obligations; and the retiring trustee shall also, upon like request and upon payment of its unpaid compensation and expenses as aforesaid, pay over, assign and deliver to the successor trustee any money and other property subject to the lien of the Mortgage then held by it, and deliver any and all records, or copies thereof, in respect of the trusts hereunder which it may have, and upon request of any such successor trustee the Railroad Company shall execute, acknowledge and de-

liver any and all deeds, conveyances or other instruments in writing for more fully and certainly vesting in and confirming to such successor trustee said estates, properties, rights, powers and duties, provided, however, that such successor trustee shall not authenticate Bonds in the name of such predecessor trustee.

Section 14. If at any time or times it shall be necessary or prudent in order to conform to any law of any state in which the Railroad Company shall at the time hold any property subject to the lien of the Mortgage, or the Trustee shall be advised by counsel satisfactory to it that it is so necessary or prudent in the interest of the Bondholders, or if the holders of a majority in principal amount of the Bonds shall in writing so request the Trustee or the Railroad Company, the Trustee and the Railroad Company shall execute and deliver all instruments and agreements necessary or proper to constitute another bank or trust company or one or more persons approved by the Trustee and the Railroad Company, either to act hereunder as co-trustee or co-trustees with respect to all or any of the property subject to the lien of the Mortgage, jointly with the Trustee, or to act hereunder as separate trustee or trustees with respect to any such property, any such bank, trust company or person so appointed being hereinafter referred to as an additional trustee. In the event the Railroad Company shall not have joined in the execution of such instruments and agreements within 30 days after the receipt of a written request from the Trustee so to do, or in case an Event of Default shall have occurred and be continuing, the Trustee may act under the foregoing provision of this Section 14 without the concurrence of the Railroad Company; and the Railroad Company hereby fully empowers the Trustee so to act and appoints the Trustee its

agent and attorney to act for it under the foregoing provision of this Section 14 in either of such contingencies.

Every such additional trustee hereunder shall, to the extent permitted by law, be appointed and act, and the Trustee shall act, subject to the following provisions and conditions, namely:

(a) the Bonds shall be authenticated and delivered and all powers, duties, obligations and rights conferred upon the Trustee in respect of the custody, control and management of moneys, papers or securities, shall be exercised solely by Continental Illinois National Bank and Trust Company of Chicago or its successor, as Trustee hereunder;

(b) all rights, powers, duties and obligations conferred or imposed upon the trustees or any of them shall be conferred and imposed upon and exercised or performed by Continental Illinois National Bank and Trust Company of Chicago or its successor, as Trustee, or by Continental Illinois National Bank and Trust Company of Chicago or its successor, as Trustee, and such additional trustee jointly, except to the extent that under the law of any jurisdiction in which any particular act or acts are to be performed, Continental Illinois National Bank and Trust Company of Chicago or its successor, as Trustee, shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties and obligations shall be exercised and performed by such additional trustee;

(c) no power hereby given to, or which it is hereby provided may be exercised by, any such additional trustee shall be exercised hereunder by such additional trustee except jointly with, or with the consent in writing of, Continental Illinois National Bank and Trust Company of Chicago or its successor, as Trustee;

(d) no trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder;

(e) the Railroad Company and the Trustee at any time by an instrument in writing executed by them jointly may remove any such additional trustee, and in that case, by an instrument in writing executed by them jointly, may appoint a successor to such additional trustee. In the event that the Railroad Company shall not have joined in the execution of any such instrument within 10 days after the receipt of a written request so to do, or in case an Event of Default shall have occurred and be continuing, the Trustee shall have the power to remove any such additional trustee and to appoint a successor additional trustee without the concurrence of the Railroad Company; and the Railroad Company hereby empowers the Trustee to make such removal and appointment and appoints the Trustee, its agent and attorney to act for it in such connection and in such contingency. In the event that the Trustee alone shall have appointed an additional trustee as above provided, it may at any time by an instrument in writing remove any such additional trustee, the successor to any such additional trustee to be appointed by the Railroad Company and the Trustee, or by the Trustee alone, as hereinbefore in this Section 14 provided.

Subject to requirements of context and to the foregoing, the term "Trustee" appearing throughout the Mortgage shall be deemed to include each such additional Trustee.

Section 15. The Trustee is hereby appointed (and the successive holders of the Bonds, by taking and holding the same, shall conclusively be deemed to have so appointed the Trustee) the true and lawful attorney-in-fact of the respective holders of the Bonds, with authority to make or file, irrespective of whether the Bonds or any of them are in

default as to payment of principal or interest, in the respective names of the holders of the Bonds and coupons or in behalf of all holders of the Bonds and coupons as a class, any proof of debt, amendment to any proof of debt, petition or other document, and to execute any and all other papers and documents and do and perform any and all other acts and things for and in behalf of the respective holders of the Bonds and coupons, or in behalf of all holders of the Bonds and coupons as a class, as may be necessary or advisable in the opinion of the Trustee in order to have the claims of the holders of the Bonds and coupons against the Railroad Company, or any successor, or any other person or corporation, allowed and paid in any equity receivership, insolvency, liquidation, bankruptcy, reorganization or other proceedings which shall involve the Railroad Company or the mortgaged property or any part thereof, and to receive payment of or on account of any such claim or claims; and any receiver, assignee or trustee in any such proceeding is hereby authorized by each of the Bondholders to make such payments to the Trustee. The appointment made and authority granted by this Section 15 may be revoked by any holder of Bonds or coupons with respect to Bonds or coupons held by him at any time after institution of any such proceeding, by delivering notice of such revocation to the Trustee and filing a copy thereof in such proceeding. Nothing herein contained shall give the Trustee authority to assent to or reject on behalf of any holder of Bonds and coupons any plan of reorganization, plan of adjustment, or similar plan, proposed or approved in any such proceeding.

ARTICLE XVI

Remedies of Trustee and Bondholders

Section 1. Except as provided in Section 3 of Article XIX, the Railroad Company will not, directly or indirectly, extend or assent to the extension of the time for the payment of any coupon or claim for interest on any of the Bonds, and it will not, directly or indirectly, be a party to or approve any such arrangement by purchasing or refunding said coupons or claims for interest or in any other manner; and if the time for payment of any such coupon or claim for interest shall be so extended with the consent of the Railroad Company, such coupon or claim for interest shall not be entitled, in case of default hereunder, to the benefit of the security of the Mortgage, except subject to the prior payment in full of the principal of all Outstanding Bonds and all coupons and claims for interest thereon the payment of which shall not have been so extended; provided, that the foregoing provisions of this Section 1 shall not be applicable to any coupon or claim for interest the time for the payment of which shall have been extended, if such extension was made pursuant to a plan proposed by the Railroad Company to all holders of any one or more series of Bonds. If, at or after the maturity of Bonds, any coupons or claims for interest in respect of such Bonds shall be owned by the Railroad Company, or shall be purchased by it or on its behalf, then such matured coupons or claims for interest shall not be entitled to the benefit or security of the Mortgage, and the Railroad Company covenants that all such matured coupons and claims for interest shall be cancelled promptly upon such maturity if then owned by the Railroad Company or upon their purchase if purchased by or on behalf of the Railroad Company at or after such maturity.

Section 2. If one or more of the following events, herein called Events of Default, shall occur, that is to say:

(a) Default shall be made in the payment of any instalment of interest on any of the Outstanding Bonds when and as such interest shall become due and payable as therein and in the Mortgage expressed, and such default shall continue for 90 days; or

(b) Default shall be made in the payment of the principal of any of the Outstanding Bonds, or the premium thereon payable on redemption thereof, when the same shall become due and payable either by the terms thereof or otherwise as herein provided; or

(c) Default shall be made in the observance or performance of any other of the covenants, conditions or agreements on the part of the Railroad Company, its successors or assigns, contained in the Bonds or in the Mortgage, and such default shall continue for 60 days (or in case of any default under a supplemental indenture for such other time, if any, as may be specified therein) after written notice specifying such default and requiring the same to be remedied shall have been given to the Railroad Company by the Trustee, which notice may be given by the Trustee in its discretion, and shall be given on the written request of the holders of 25% in principal amount of the then Outstanding Bonds; or

(d) A decree or order by a court having jurisdiction in the premises shall have been entered adjudging the Railroad Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization of the Railroad Company under the Bankruptcy Act or any other state or federal law, and such decree or order shall have continued undischarged or unstayed for 60 days; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver or liquidator or trustee in bankruptcy or insolvency of the Railroad Company or of its property, or any substantial portion of its property, or for the winding up or liquidation of its affairs, shall have been entered, and such de-

cree or order shall have remained in force undischarged and unstayed for 60 days; or

(e) The Railroad Company shall institute proceedings to be adjudged a voluntary bankrupt, or shall consent to the filing of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking reorganization or readjustment under the Bankruptcy Act or any other state or federal law, or otherwise invoke any law for the aid of debtors, or shall consent to the filing of any such petition, or shall consent to the appointment of a receiver or liquidator or trustee in bankruptcy or insolvency of it or of its property or any substantial portion of its property, or shall make an assignment for the benefit of creditors; or shall admit in writing its inability to pay its debts generally as they become due, or corporate action shall be taken by the Railroad Company in furtherance of any of the aforesaid purposes;

then, and in each and every such case, the Trustee personally or by its agents or attorneys, to the extent permitted by law, may, but shall not be obligated to, enter into and upon all or any part of the mortgaged property, and each and every part thereof, and may exclude the Railroad Company, its agents and servants wholly therefrom; and having and holding the same may use, operate, manage and control the mortgaged property or any part thereof, and conduct the business of the Railroad Company, either personally or by the Railroad Company's superintendents, managers, agents, servants, attorneys, receivers or trustees, in such manner as the Trustee may deem to be to the best advantage of the Bondholders, and upon every such entry the Trustee, at the expense of the mortgaged property, from time to time, either by purchase, repair or construction, may maintain and restore the rolling stock, tools and machinery and other property, buildings, bridges and structures erected upon or provided for use in connection with said railways and other premises whereof it shall become possessed as aforesaid, and may insure or keep insured such

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Article XVI
Section 2

of the same as are usually insured by railway companies and in the same manner and to the same extent; and likewise from time to time, at the expense of the mortgaged property, may make all necessary or proper repairs, renewals and replacements and useful alterations, additions, betterments and improvements to and on the mortgaged property, and purchase or otherwise secure the use of additional engines, rolling stock, tools, machinery and other property for use thereon, as to it may seem judicious; and, in such case, the Trustee shall have the right to manage the mortgaged property and to carry on the business and exercise all rights and powers of the Railroad Company with respect thereto, either in the name of the Railroad Company or otherwise, as the Trustee shall deem best; and shall be entitled to collect and receive all rates, fares, tolls, earnings, incomes, rents, issues, revenues and profits of the same and every part thereof, including the income from stock, bonds or other obligations subject to the Mortgage; and after deducting the expenses of operating said railways and other premises, and of conducting the business thereof, and of all repairs, maintenance, renewals, replacements, alterations, additions, betterments and improvements, and all payments which may be made for taxes, assessments, insurance and prior or other proper charges upon the mortgaged property, or any part thereof, as well as just and reasonable compensation for its own services and for the services of all attorneys, counsel, agents, clerks, servants and other employees by it properly engaged and employed, the Trustee shall apply the rest and residue of the moneys arising as aforesaid as follows:

(i) If the principal of none of the Outstanding Bonds shall have become due and be unpaid, to the payment of the interest on the Outstanding Bonds, in the order of the maturity of the instalments of such interest, such

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Article XVI
Sections 2 and 3

payments to be made proportionately to the persons entitled thereto without discrimination or preference.

(ii) If the principal of all or any part of the Bonds shall have become due, by declaration or otherwise, and shall be unpaid, *first* to the payment of interest accrued on the Outstanding Bonds prior to the date upon which the principal of said Bonds became due and payable, in the order of the maturity of the instalments of such interest, and *second* to the payment of interest on the overdue principal of said Bonds at the highest rate of interest borne by any of the Outstanding Bonds, and *third* (subject to the provisions of Section 4 of this Article XVI), to the payment of the principal of all of said Bonds, whether due or not; in every instance such payments to be made proportionately to the persons entitled thereto without discrimination or preference.

These provisions, however, are not intended to and shall not be deemed in any wise to modify the provisions of Section 1 of this Article XVI but are subject thereto.

Section 3. If the Trustee, under the powers in the Mortgage granted, or a receiver or any trustee appointed under the provisions of the Bankruptcy Act, or any other state or federal law, shall have entered into possession of the mortgaged property, or a part thereof, or one or more Events of Default shall have occurred and be continuing, the Trustee (to the extent permitted by law) shall be entitled to exercise, while such default shall continue, all right and power to vote and consent with respect to all shares of stock, bonds and other obligations subject to the lien of the Mortgage, and, for the benefit of the Bondholders, shall be entitled to collect and receive all dividends on all shares of stock and all sums payable for principal, interest or otherwise upon any bonds or other obligations that shall then be subject to the Mortgage and shall apply, as hereinbefore in Section 2

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Article XVI
Sections 3 and 4

of this Article XVI provided, any moneys so received; and, as the holder of any such shares of stock, bonds or other obligations, shall be entitled to perform any and all acts, or to make and execute any and all transfers, requests, requisitions or other instruments, for the purpose of carrying out the provisions of this Section 3.

Section 4. In case one or more Events of Default shall have occurred and be continuing, then in each and every such case, unless the principal of all the Outstanding Bonds already shall have become due and payable, the Trustee may, and upon the written request of the holders of 25% in principal amount of the Outstanding Bonds shall, by notice in writing mailed to the Railroad Company, declare the principal of all Bonds to be forthwith due and payable, and upon any such declaration the same shall become and be forthwith due and payable, together with all accumulations of unpaid interest, if any, notwithstanding the date of maturity thereof as stated in such Bonds or in the coupons, if any, pertaining thereto, or in the Mortgage. This provision, however, is subject to the condition that, if at any time after the principal of the Bonds shall have been so declared due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided or any sale of the mortgaged property or any part thereof shall have been made, all unpaid interest upon all Outstanding Bonds, and the principal (and premium, if any) of any Outstanding Bonds which shall have become due otherwise than by acceleration under this Section 4, and the reasonable charges and expenses of the Trustee, its agents and attorneys, shall either be paid by the Railroad Company or be collected out of the income of the mortgaged property, or be provided for by the deposit with the Trustee of a sum sufficient to pay the same, and

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Article XVI
Sections 4 and 5

all other defaults made good to the satisfaction of the Trustee, then and in every such case the holders of two-thirds in principal amount of the Outstanding Bonds, by written notice to the Railroad Company and to the Trustee, may waive such default or defaults and its or their consequences and annul such declaration of the maturity of the Bonds, but no such waiver or annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

In case the Trustee shall have proceeded to enforce any right under the Mortgage, by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned because of such waiver or annulment, or for any other reason, or shall have been determined adversely to the Trustee, then and in every such case the Railroad Company and the Trustee shall be restored to their former position and rights hereunder in respect of the mortgaged property, and all rights, remedies and powers of the Railroad Company and of the Trustee shall continue thereafter as though no such proceedings had been taken.

Section 5. In case one or more Events of Default shall have occurred and be continuing, the Trustee, with or without entry, personally or by attorney, in its discretion:

(a) If and to the extent permitted by law, may but shall not be obligated to sell, subject to any prior liens thereon, to the highest bidder, all and singular the mortgaged property, and all right, title and interest, claim and demand therein, free from any right of redemption thereof, in one parcel and as an entirety, except as in Section 6 of this Article XVI provided; which sale or sales shall be made at public auction at such place in the City of Chicago, Illinois, or at such other place or places, and at such time and upon such terms, as the Trustee may fix and briefly specify in the notice of sale to be given as hereinafter in Section 7 of this Article XVI provided; or

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Article XVI
Sections 5 and 6

(b) May proceed to protect and to enforce its rights and the rights of holders of the Outstanding Bonds by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or for the foreclosure of the Mortgage, or for the enforcement of any other appropriate legal or equitable remedy, as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce any of its rights or duties and the rights of holders of the Outstanding Bonds.

Upon the written request of the holders of not less than 25% in principal amount of the then Outstanding Bonds, in case any Event of Default shall have occurred and be continuing as aforesaid, it shall be the duty of the Trustee, upon being indemnified as hereinafter provided, to exercise such one or more of the remedies available for the protection and enforcement of its rights and the rights of the Bondholders (including the exercise of the powers of entry or sale herein conferred, or the taking of appropriate judicial proceedings by action, suit or otherwise) as the Trustee, being advised by counsel, shall deem most expedient in the interest of the Bondholders.

Section 6. In the event of any sale, whether made under the power of sale herein granted or conferred, or under or by virtue of judicial proceedings, or of some judgment or decree of foreclosure and sale, the whole of the mortgaged property shall be sold in one parcel and as an entirety, unless such sale as an entirety is impracticable in the opinion of the Trustee by reason of some statute or other circumstance, or unless the holders of a majority in principal amount of the Outstanding Bonds shall in writing request the Trustee to cause said premises to be sold in parcels, in which case the sale shall be made in such parcels and in such order as may be specified in such request.

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Article XVI
Sections 6, 7, 8 and 9

The Railroad Company, for itself and all persons and corporations hereafter claiming through or under it, or who may at any time hereafter become holders of liens junior to the lien of the Mortgage, hereby expressly waives and releases all right to have the mortgaged property marshalled upon any foreclosure or other enforcement hereof, and the Trustee or any court in which the foreclosure of the Mortgage or the administration of the trusts hereby created is sought shall have the right as aforesaid to sell the entire property of every description comprised in the mortgaged property, as a whole in a single lot or parcel.

Section 7. Notice of any sale pursuant to any provision of the Mortgage shall state the time and place of said sale, and shall contain a brief general description of the property to be sold, and shall be sufficiently given if published once in each week for 4 successive weeks prior to such sale in a Daily Newspaper in the Borough of Manhattan, City of New York, New York, and in a Daily Newspaper in the City of Chicago, Illinois, and in such other manner as may be required by law.

Section 8. The Trustee may adjourn from time to time any sale to be made by it under the provisions of the Mortgage, by announcement at the time and place appointed for such sale, or for such adjourned sale or sales, and without further notice or publication (unless otherwise required by law) such sale may be made at any time or place to which the same shall be so adjourned.

Section 9. Upon the completion of any sale or sales under the Mortgage, the Trustee or the court officer conducting the sale shall execute and deliver to the accepted purchaser or purchasers a good and sufficient bill or bills of sale and deed or deeds of conveyance of the property and franchises sold. The

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Article XVI
Section 9

Trustee and its successors are hereby irrevocably appointed the true and lawful attorneys of the Railroad Company, in its name and stead to make all necessary deeds, bills of sale and conveyances of the property and franchises and all necessary transfers of shares of stock or bonds or other obligations thus sold; and may substitute one or more persons with like power, the Railroad Company hereby ratifying and confirming all that its said attorney or attorneys, or such substitute or substitutes, shall lawfully do by virtue hereof. Nevertheless, the Railroad Company, if so requested by the Trustee, shall ratify such sale by executing and delivering such deeds of conveyance, bills of sale or other instruments of assignment and transfer, as in the judgment of the Trustee may be advisable.

Any such sale or sales made under or by virtue of the Mortgage, whether under the power of sale hereby granted and conferred, or under or by virtue of any judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Railroad Company, of, in and to the premises and property sold, and shall be a perpetual bar, both at law and in equity, against the Railroad Company, its successors and assigns, and against any and all persons claiming the premises and property sold, or any part thereof, from, through or under the Railroad Company, its successors or assigns.

The personal property and chattels conveyed, or intended to be conveyed, by or pursuant to the Mortgage, other than stocks and bonds and other obligations or securities or claims, shall be real property for all the purposes of the Mortgage, and shall be held and taken to be fixtures and appurtenances of the Railroad Company's lines of railroad and a part thereof, and are to be used and sold therewith and not separate therefrom, except as herein otherwise provided.

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Article XVI
Sections 9, 10 and 11

The receipt of the Trustee for the purchase money paid at any such sale, or the receipt of any other person authorized to receive the same, shall be a sufficient discharge therefor to any purchaser of the property, or any part thereof, sold as aforesaid, and no such purchaser, or his representatives, grantees or assigns, after paying such purchase money and receiving such receipt, shall be bound to see to the application of such purchase money or any part thereof upon or for any trust or purpose of the Mortgage, or, in any manner whatsoever, be answerable for any loss, misapplication or nonapplication of any such purchase money, or any part thereof, or be bound to inquire as to the authorization, necessity, expediency or regularity of any such sale.

Section 10. In case of a sale of the mortgaged property substantially as a whole under any of the foregoing provisions of this Article XVI, whether made under the power of sale hereby granted or pursuant to judicial proceedings, the principal of all Bonds then outstanding, if not previously due, immediately thereupon shall become due and payable, notwithstanding the date of maturity thereof as stated in such Bonds or in the Mortgage.

Section 11. The purchase money, proceeds and avails of any such sale, whether made under the power of sale hereby granted or pursuant to judicial proceedings, together with any other sums which then may be held by or for the Trustee under any of the provisions of the Mortgage as part of the mortgaged property or of the proceeds thereof, shall be applied as follows:

First. To the payment of the costs and expenses of such sale, the reasonable compensation to the Trustee, its agents, attorneys and counsel, all expenses, liabilities and advances made or incurred by the Trustee, except

such as may have arisen by its negligence or bad faith, and the payment of all taxes, assessments or liens prior to the lien of the Mortgage, except taxes, assessments and prior liens, if any, subject to which the property shall have been sold.

Second. To the payment of the whole amount then due and unpaid upon the Outstanding Bonds for principal and interest, with interest on the overdue principal at the highest rate of interest borne by any of the Outstanding Bonds, and in case such moneys shall be insufficient to pay in full the whole amount so due and unpaid upon the Outstanding Bonds, then to the payment of such principal and interest proportionately, according to the aggregate of such principal and accrued and unpaid interest, without preference or priority of any Outstanding Bond over any other Outstanding Bond of the same or of another series or of principal over interest, or of interest over principal, or of any instalment of interest over any other instalment of interest, subject, however, to the provisions of Section 1 of this Article XVI.

Third. To the payment of the surplus, if any, to the Railroad Company, its successors or assigns, or to whosoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

SECTION 12. In case of any sale under the foregoing provisions of this Article XVI, whether made under the power of sale hereby granted or pursuant to judicial proceedings, any purchaser, for the purpose of making settlement or payment for the property purchased, shall be entitled to use and apply any Bonds and any matured and unpaid coupons and interest obligations hereby secured, subject to the provisions of Section 1 of this Article XVI, by presenting such Bonds and coupons in order that there may be credited as paid thereon the sums payable out of the net proceeds of such sale to the holder or registered owner of such Bonds and coupons, as his proportionate share of such net proceeds; and such purchaser shall be credited on account of the purchase price payable by him with the sums payable out of such net proceeds which shall be applicable to the payment of and which shall have been credited, upon the Bonds and coupons so presented; and, at any such sale, any Bondholder may bid for and purchase such property, and may make payment therefor as aforesaid, and, upon compliance with the terms of said sale, may hold, retain and dispose of such property without further accountability therefor.

SECTION 13. The Railroad Company covenants that (a) if default shall be made in the payment of any interest on any Outstanding Bonds, or (b) if default shall be made in the payment of the principal of any Outstanding Bonds, or the premium thereon payable on redemption thereof, when the same shall become due and payable, whether at the maturity of such Bonds, upon redemption, by declaration or by a sale of the mortgaged property, or otherwise, then, upon demand of the Trustee, the Railroad Company will pay to the Trustee for the benefit of the holders of such Bonds and coupons the whole amount then due and payable on such Bonds and coupons, for principal (and premium, if any) or interest, or both, as the case may be, with interest on the overdue principal at the highest rate of interest borne by any of the Outstanding Bonds; and in case the Railroad Company shall fail to pay the same forthwith upon such demand, the Trustee, in its own name and as Trustee of an express trust, shall be entitled to recover judgment for the whole amount so due and unpaid.

The Trustee shall be entitled to institute and prosecute any action and enforce any judgment or final decree as aforesaid, either before or after or during the pendency of any proceedings for the enforcement of the lien of the Mortgage, and

the right of the Trustee to such judgment or final decree shall not be affected by any entry or sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the provisions of the Mortgage or the foreclosure of the lien hereof; and in case of a sale of the mortgaged property or any part thereof, the Trustee, in its own name and as trustee of an express trust, shall be entitled to enforce payment of, and to receive, all amounts then remaining due and unpaid upon any and all of the Bonds and coupons, for the benefit of the holders thereof, and shall be entitled to institute and prosecute any action and enforce any judgment or final decree as aforesaid for any portion of the said debt remaining unpaid, with interest. No judgment or decree obtained by the Trustee, and no levy of any execution upon the mortgaged property, or upon any other property, shall in any manner, or to any extent, affect the lien of the Mortgage upon the mortgaged property, or any part thereof, or any lien, rights, powers or remedies of the Trustee hereunder, or any lien, rights, powers or remedies of the Bondholders, but such lien, rights, powers and remedies shall continue unimpaired as before, except as otherwise provided by law.

Any moneys collected by the Trustee under this Section 13 shall be applied by the Trustee,

First, to the payment of the costs and expenses of the proceedings resulting in the collection of such moneys, and of the compensation of and the expenses, liabilities and advances made or incurred by the Trustee hereunder, except such as may have arisen by its negligence or bad faith; and

Second, to the payment of the amounts then due and unpaid upon the Outstanding Bonds and coupons in respect of which such moneys shall have been collected, without any preference or priority of any kind, but subject to the provisions of Section 1 of this Article XVI,

proportionately according to the amounts due and payable upon such Outstanding Bonds and coupons, respectively, at the date fixed by the Trustee for distribution of such moneys, upon presentation of the several Outstanding Bonds and coupons and their surrender if fully paid, or for proper stamping if only partially paid.

SECTION 14. The Railroad Company will not at any time insist upon or plead, or claim to take advantage of any statute or rule of law, now or hereafter in force, wherever enacted or established, in aid of debtors or permitting or providing for (a) the staying of actions in respect of mortgages or mortgage indebtedness, or for extending the time for payment of such indebtedness; (b) the valuation or appraisement of the property held under any mortgage or pledge to secure indebtedness prior to any sale or sales thereof pursuant to the terms of such mortgage or pledge or to the decree, judgment or order of any court; or (c) the redemption of any property so sold; and the Railroad Company hereby expressly waives all benefit and advantage of any such statute or rule of law, and covenants that it will not hinder, delay or impede the execution of any power herein granted or delegated to the Trustee, but that it will suffer and permit the execution of every such power, as though no such statute or rule of law had been enacted or established.

SECTION 15. In case (1) an Event of Default shall occur and (a) at any time during the continuance of such Event of Default there shall be any existing judgment against the Railroad Company unsatisfied and unsecured by bond on appeal or (b) in any judicial proceeding by any party other than the Trustee, a receiver shall be appointed of the Railroad Company or of its property or any part thereof, or a judgment or order be entered for the sequestration of its property or any part thereof; or, in case (2) the Railroad

Company shall make default in the payment of interest specified in clause (a) of Section 2 of this Article XVI, and shall by resolution of its Board of Directors admit to the Trustee its inability to make good such default; then the Trustee, in either such case, shall thereupon be entitled, in the discretion of the Trustee, forthwith to exercise the right of entry herein conferred and also any and all other rights and powers herein conferred and provided to be exercised by the Trustee upon the happening and continuance of an Event of Default as hereinbefore provided; and the Trustee shall thereupon be entitled as a matter of right (i) to the appointment of a receiver of the mortgaged property and of the earnings, rents, issues, profits, tolls, revenues and income thereof, with such powers as the court making such appointment shall confer, and (ii) to the entry of an order directing that the rents, issues, profits, tolls, revenues and other income of the premises and property comprised in the mortgaged property be segregated, sequestered and impounded for the benefit of the Trustee and the Bondholders from and after the date of the institution of any judicial proceedings of the nature referred to in this Section 15 or in clauses (d) and (e) of Section 2 of this Article XVI. Notwithstanding the appointment of any such receiver, the Trustee, as pledgee, shall be entitled to retain possession and control of, and to collect all interest and dividends or earnings on, any shares of stock, cash, bonds and other obligations pledged with it as security hereunder.

The Railroad Company hereby irrevocably consents to the appointment of such receiver and to the entry of such order.

SECTION 16. Upon application of the Trustee to any court of competent jurisdiction, and with the consent of the Railroad Company if none of the Events of Default shall have occurred and be continuing, and without such consent if one or more of the Events of Default shall have occurred and be

continuing, a receiver may be appointed to take possession of, and to operate, maintain and manage the mortgaged property or any part thereof, and any other property of the Railroad Company used for, in or about, or the use or possession whereof shall be essential to, the operation of the mortgaged railroads or any thereof, and the Railroad Company shall transfer and deliver to such receiver all such property, wheresoever the same may be situated; and in every case when a receiver of the whole or of any part of said property shall be appointed under this Section 16, or otherwise, the net income and profits of the mortgaged property shall be paid over to, and shall be received by, the Trustee for the benefit of the holders of the Outstanding Bonds and coupons to be applied as provided in Section 2 of this Article XVI; provided, however, that, notwithstanding the appointment of any such receiver, the Trustee shall be entitled to retain control of, and to collect all interest and dividends or earnings on, any shares of stock, cash, bonds and other obligations pledged with it as security hereunder.

SECTION 17. No holder of any Bond or coupon shall have any right to institute any suit, action or proceeding in equity or at law for the foreclosure of the Mortgage, or for the execution of any trust hereunder, including the appointment of a receiver, or for any other remedy hereunder, unless (a) such holder previously shall have delivered to the Trustee written notice that one or more Events of Default, which default or defaults shall be specified in such notice, has occurred and is continuing, and (b) the holders of not less than 25% in principal amount of the then Outstanding Bonds shall have requested the Trustee in writing and shall have afforded to it reasonable opportunity either to proceed to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name, and (c) one or more

holders of Bonds shall have offered to the Trustee adequate security and indemnity, satisfactory to it, against the costs, expenses and liabilities to be incurred therein or thereby, nor unless the Trustee shall have refused or neglected to act on such notification, request and offer of indemnity for at least 30 days; and such notification, request and offer of indemnity are hereby declared, in every such case, at the option of the Trustee, to be conditions precedent to the exercise of the powers and trusts of the Mortgage and to any action or cause of action for foreclosure, including the appointment of a receiver or trustee, or for any other remedy hereunder; it being understood and intended that no holder of any Bond or coupon shall have any right in any manner whatsoever by his action to affect, disturb or prejudice the lien of the Mortgage or to enforce any right hereunder, except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had or maintained in the manner herein provided, and for the equal benefit of all holders of the Outstanding Bonds and coupons.

Nothing contained in this Section 17 or elsewhere in the Mortgage or in the Bonds or in the coupon shall affect or impair the obligation of the Railroad Company, which is unconditional and absolute, to pay the principal of, premium, if any, and interest on the Bonds to the respective holders of the Bonds and to the respective holders of the coupons, as provided in such Bonds, nor affect or impair the right of action at law, which is also absolute and unconditional, of such holders to collect such payment.

SECTION 18. Except as herein expressly provided to the contrary, no remedy herein conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy or remedies, but each and every such remedy shall be cumulative, and shall be in addition to every other

remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

SECTION 19. No delay of the Trustee or of any Bondholder in exercising any right or power accruing upon any default continuing as aforesaid and no omission to exercise any such right or power shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by this Article XVI to the Trustee, or to any Bondholder, may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by such Bondholder, respectively.

SECTION 20. The Trustee shall have power, but shall be under no duty, to institute and maintain suits or proceedings to restrain the enforcement of, or compliance with, or the observance of, any legislative or governmental enactment, rule or order that it may be advised and believe is unconstitutional, or otherwise invalid, if the enforcement of, or compliance with, or observance of, such enactment, rule or order would, in the judgment of the Trustee, impair the security hereunder or be prejudicial to the Trustee or to the Bondholders.

SECTION 21. The holders of a majority in aggregate principal amount of the Outstanding Bonds shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or the exercise or non-exercise of any trust or power conferred on the Trustee. The holders of a majority in aggregate principal amount of the Outstanding Bonds may on behalf of the holders of all of the Bonds waive any past default hereunder and its consequences except an Event of Default specified in clauses (a) or (b) of Section 2 of this Article XVI. In the case of any such waiver, the Railroad Company, the Trustee

and the Bondholders shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

SECTION 22. All parties to the Mortgage agree, and each holder of any Bond by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Mortgage, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion 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 such party litigant; but the provisions of this Section 22 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Bondholder or group of Bondholders holding more than 10% in aggregate principal amount of the Outstanding Bonds, or to any suit instituted by any Bondholder for the enforcement of the payment of the principal of or interest on any Bond, on or after the due date expressed in such Bond.

SECTION 23. To the extent that any provision of this Article XVI may be invalid or unenforceable under any applicable law with respect to any of the mortgaged property, such provision shall be deemed inoperative and inapplicable.

ARTICLE XVII

IMMUNITY OF INCORPORATORS, STOCKHOLDERS, DIRECTORS AND OFFICERS

The Mortgage and the Bonds and coupons are solely corporate obligations. No recourse shall be had for the payment of the principal of or the interest on any Bond, or for any claim based thereon or on any coupon appurtenant thereto, or because of the creation of the indebtedness represented thereby, or otherwise in respect thereof, or based on or in respect of the Mortgage, against any past, present or future incorporator, stockholder, officer or director of the Railroad Company, as such, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability, by the acceptance of such Bond and as part of the consideration for the issuance thereof, being expressly waived and released.

ARTICLE XVIII

DEFEASANCE

SECTION 1. If (a) the Railroad Company shall deliver to the Trustee for cancellation all Bonds and appurtenant coupons not theretofore cancelled and delivered to the Trustee, or (b) all Bonds not theretofore delivered to the Trustee cancelled or for cancellation shall have become due and payable, or are by their terms to become due and payable within 90 days or are to be redeemed within 90 days under arrangements satisfactory to the Trustee for the giving of notice of redemption, and the Railroad Company shall deposit with the Trustee as trust funds an amount sufficient to pay at maturity or upon redemption all of the Bonds not theretofore delivered to the Trustee cancelled or for cancellation, including the principal thereof, premium, if any, and the full amount of unpaid interest which has or will become due to such date of maturity or redemption, as the case may be, and if in either case the Railroad Company shall also pay or cause to be paid all other sums payable hereunder by the Railroad Company, then the Mortgage shall cease to be of further effect. In such event the Trustee, on demand of the Railroad Company and at its cost and expense, shall execute and deliver to the Railroad Company such instrument or instruments as may be appropriate to acknowledge satisfaction of the Mortgage, and as will enable the Railroad Company to have the Mortgage discharged of record, and shall release and assign, or cause to be released and assigned, to the Railroad Company all of its interest in the mortgaged property, and shall deliver to the Railroad Company or upon its order all securities and moneys then held by the Trustee under the provisions hereof other than the money deposited as above provided in this Article XVIII.

The Railroad Company, notwithstanding the satisfaction of the Mortgage as above provided, will indemnify the Trustee and hold it harmless against any and all expense or liability, incurred without negligence or bad faith, ascertained

or incurred by the Trustee after the satisfaction thereof arising out of or based upon any matter connected with the trust created by the Mortgage.

SECTION 2. All moneys deposited with the Trustee pursuant to Section 1 of this Article XVIII shall be held in trust and applied by it to the payment to the holders of the Bonds and coupons of all sums due and to become due thereon for principal and interest and premium, if any.

SECTION 3. Upon the satisfaction and discharge of the Mortgage, all moneys then held by any paying agent under any provision of the Mortgage shall be paid to the Trustee, and thereupon such paying agent shall be released from all further liability with respect to such moneys.

SECTION 4. Any moneys deposited by the Railroad Company with the Trustee or with any paying agent for the payment of the principal of, or the premium or interest on, any Bond which shall remain unclaimed by the holder of the Bond or coupon entitled to receive the same for 10 years after the date upon which the principal of such Bond shall have become due and payable (upon redemption or otherwise) shall be repaid to the Railroad Company on demand; and the holder of any Bond or coupon entitled to receive such payment shall thereafter look only to the Railroad Company for the payment thereof; provided, however, that (a) before any such repayment may be made, the Trustee, at the expense of the Railroad Company, shall cause to be published once a week for two successive calendar weeks (in each case on any day of the week) in a Daily Newspaper in the Borough of Manhattan, City of New York, New York, and in a Daily Newspaper in the City of Chicago, Illinois, a notice that said moneys have not been claimed and that after a date named therein any balance of said moneys then remaining will be returned to the Railroad Company, and (b) the amount of such repayment shall be limited to the balance of such moneys unclaimed at the close of business on such date.

ARTICLE XIX

SUPPLEMENTAL INDENTURES

SECTION 1. The Railroad Company, when authorized by a resolution of its Board of Directors, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto for one or more of the following purposes:

(a) To convey, transfer and assign to the Trustee and subject to the lien of the Mortgage, with the same force and effect as though included in the granting clauses hereof, additional property then owned by the Railroad Company, acquired through consolidation, merger, purchase or otherwise;

(b) To evidence the succession of another corporation to the Railroad Company, or successive successions, and the assumption by the successor corporation of the covenants, agreements and obligations of the Railroad Company pursuant to Article XII;

(c) To set forth the terms and provisions of any series of Bonds to be issued hereunder and the form of the Bonds and coupons of such series;

(d) To add to the covenants of the Railroad Company such further covenants for the protection of the mortgaged property and the Bondholders as the Board of Directors and the Trustee shall consider to be for the protection of the Bondholders, and to make the occurrence and continuance of a default under any of such additional covenants a default permitting the enforcement of all or any of the several remedies provided in the Mortgage; provided, however, that in respect of any such additional covenant, such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement of said remedy or remedies upon

such default or may limit the remedies available to the Trustee upon such default or may authorize the holders of not less than a majority in aggregate principal amount of the Outstanding Bonds to waive such default and prescribe limitations on such rights of waiver; and

(e) To cure any ambiguity or to correct or supplement any provision contained in the Mortgage which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make such other provisions in regard to matters or questions arising under the Mortgage as shall not be inconsistent with the provisions of the Mortgage and shall not adversely affect the interest of the Bondholders.

The Trustee is hereby authorized to join with the Railroad Company in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer and assignment of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which, in its opinion, affects the Trustee's own rights, duties or immunities under the Mortgage or otherwise.

Any supplemental indenture authorized by the provisions of this Section 1 may be executed by the Railroad Company and the Trustee without the consent of the holders of any of the then Outstanding Bonds, notwithstanding any of the provisions of Section 2 of this Article XIX.

SECTION 2. With the consent (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 66⅔% in aggregate principal amount of the Outstanding Bonds to be directly affected thereby, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the Railroad

Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time, by entering into an indenture or indentures supplemental hereto may:

(a) modify, alter, add to or eliminate any of the provisions of the Mortgage or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, except as provided in Section 3 of this Article XIX;

(b) sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property whether such right shall arise under the provisions of the Mortgage or otherwise;

(c) sanction and approve any plan for the reorganization, readjustment or liquidation of the Railroad Company;

provided, however, that no such modification, alteration, addition, elimination, sanction or approval shall, without in each case the consent of the holders of all Bonds affected thereby,

(i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on any Bonds, or change the place or medium of payment thereof; or

(ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage with respect to any property covered thereby except as in the Mortgage otherwise expressly provided; or

(iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds;

and provided further that no such modification, alteration, addition or elimination shall affect the rights, duties or im-

munities of the Trustee without the written consent of the Trustee.

It shall not be necessary for the consent of the Bondholders under this Section 2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

SECTION 3. With the consent (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 75% in aggregate principal amount of all of the then Outstanding Bonds, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the Railroad Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time by entering into an indenture or indentures supplemental hereto, may:

(a) extend the time or times of payment of the principal, either before or after the principal is due, of the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, or

(b) extend the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 5 years after such interest is due, but in no event beyond the original or extended date or dates for the payment of the principal of such Bonds.

SECTION 4. Upon the request of the Railroad Company, accompanied by a Certified Resolution authorizing the execution of any supplemental indenture pursuant to the preceding

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Article XIX
Sections 4, 5 and 6

Sections of this Article XIX, and upon the filing with the Trustee of evidence of the consent of Bondholders as aforesaid, the Trustee shall join with the Railroad Company in the execution of such supplemental indenture.

Section 5. Upon the execution of any supplemental indenture pursuant to the provisions of this Article XIX, the Mortgage shall be and be deemed to be modified and amended in accordance therewith and the respective rights, duties and obligations under the Mortgage of the Railroad Company, the Trustee and the holders of Bonds of all series outstanding thereunder shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of the Mortgage for any and all purposes.

Section 6. Bonds authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article XIX may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Railroad Company or the Trustee shall so determine, new Bonds so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any modification of the Mortgage contained in any such supplemental indenture may be prepared by the Railroad Company, authenticated by the Trustee and delivered without expense to the holders of Bonds of the same series then outstanding, upon surrender of such Bonds accompanied, in the case of coupon Bonds, by all unmatured coupons and all unpaid matured coupons which shall be appurtenant thereto, the new Bonds so issued to be of an aggregate principal amount equal to the aggregate principal amount of those so surrendered.

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Article XX
Sections 1, 2 and 3

ARTICLE XX

Miscellaneous

Section 1. The same officer or officers of the Railroad Company, or the same engineer, accountant or counsel or other person, as the case may be, need not certify to all the matters required to be certified under the provisions of any Article or Section of the Mortgage, but different officers, engineers, accountants, counsel or other persons may certify to different matters respectively.

Section 2. Each Officers' Certificate or Opinion of Counsel required to be given responsive to a specified condition or covenant provided for in the Mortgage shall include: (1) a statement that the person making such certificate or giving such opinion has read such covenant or condition; (2) 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 (3) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

Section 3. Except as otherwise expressly provided herein, nothing in the Mortgage or in any of the Bonds or coupons, express or implied, is intended or shall be construed to confer upon or give to any person, firm or corporation other than the parties hereto and the holders from time to time of the Bonds or coupons issued under the Mortgage any security, right, remedy or claim, legal or equitable, under or by reason of the Mortgage, or under or by reason of any covenant, condition or stipulation herein contained; and the Mortgage and all covenants, conditions and provisions herein contained are and shall be held to be for the sole and ex-

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Article XX
Sections 3, 4, 5 and 6

clusive benefit of the parties hereto and the holders from time to time of the Bonds and coupons issued hereunder.

Section 4. The Railroad Company shall be entitled to obtain from the Trustee from time to time such certificates and statements of the latter as to matters related to the Mortgage which are within its knowledge as the Railroad Company shall find it necessary or advisable to file with the trustee of the General Mortgage for any of the purposes thereof.

Section 5. The Mortgage may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

Section 6. The Mortgage is dated as of January 1, 1944, although executed and delivered on the date of the acknowledgment hereof by the Trustee; and the same shall be effective by order of the Court in the reorganization proceedings hereinbefore mentioned as of 12:01 A.M., Central Standard Time, on December 1, 1945.

In Witness Whereof, Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the party of the first part, has caused the Mortgage to be signed and acknowledged by its President or one of its Vice Presidents, and its corporate seal to be affixed hereunto, and the same to be attested by its Secretary or its Assistant Secretary; and Continental Illinois National Bank and Trust Company of Chicago, the party of the second part, to evidence its acceptance of the trust hereby created, has caused the Mortgage to be signed and acknowledged by one of its Vice Presidents and its corporate seal to be affixed hereunto and the same to be attested by one of its Assistant Secretaries. Executed and delivered in the City

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of Chicago, State of Illinois, the 4th day of December, 1945, as of the day and year first written above.

Chicago, Milwaukee, St. Paul and Pacific Railroad Company,

By ....
President

Attest:

....
Secretary

In the presence of

....

....

Continental Illinois National Bank and Trust Company of Chicago

By ....
Vice President

Attest:

....
Assistant Secretary

In the presence of

....

....

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State of Illinois }
County of Cook } ss.

On this 4th day of December, in the year 1945, before me, ...Henry L. Fortier......., a Notary Public in and for the State and County aforesaid, personally appeared ......H. A. Scandrett..... and ..[illegible]..Burtness......, to me personally known and known to me to be the President and Secretary, respectively, of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the corporation described in and which executed the foregoing instrument, and known to me to be the identical persons whose names are subscribed to and who executed the foregoing instrument on behalf of said corporation, who, being by me duly sworn, did severally say and acknowledge that they are the President and Secretary, respectively, of said Chicago, Milwaukee, St. Paul and Pacific Railroad Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and was affixed thereto by authority of its Board of Directors and that said instrument was signed, sealed and executed by them in the name and on behalf of said corporation by like authority; and said ...H. A. [illegible]................ and ..[illegible]................ severally acknowledged that they signed, sealed and delivered said instrument in the name and on behalf of said corporation as their free and voluntary act and deed as such President and Secretary, respectively, and by authority of the Board of Directors of said corporation, and that said instrument was voluntarily executed by said corporation as its free and voluntary act and deed, for the uses and purposes therein set forth.

In Witness Whereof, I have hereunto set my hand and affixed my Notarial Seal this 4th day of December, 1945.

(Notarial Seal)

HENRY L. FORTIER,
Notary Public in and for the
State of Illinois, County of Cook,
Residing at Chicago, therein.
My Commission Expires Feb. 26, 1948.

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State of Illinois }
County of Cook } ss.

On this 4th day of December, in the year 1945, before me, ...H. J. GROENER.........., a Notary Public in and for the State and County aforesaid, personally appeared .....F. E. MUSGROVE...... and .....V. P. NELSON......., to me personally known and known to me to be a Vice President and an Assistant Secretary, respectively, of Continental Illinois National Bank and Trust Company of Chicago, the corporation described in and which executed the foregoing instrument, and known to me to be the identical persons whose names are subscribed to and who executed the foregoing instrument on behalf of said corporation, who, being by me duly sworn, did severally say and acknowledge that they are a Vice President and an Assistant Secretary, respectively, of said Continental Illinois National Bank and Trust Company of Chicago, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and was affixed thereto by authority of its Board of Directors and that said instrument was signed, sealed and executed by them in the name and on behalf of said corporation by like authority; and said F. E. MUSGROVE. and V. P. NELSON.... severally acknowledged that they signed, sealed and delivered said instrument in the name and on behalf of said corporation as their free and voluntary act and deed as such Vice President and Assistant Secretary, respectively, and by authority of the Board of Directors of said corporation, and that said instrument was voluntarily executed by said corporation as its free and voluntary act and deed for the uses and purposes therein set forth.

In Witness Whereof, I have hereunto set my hand and affixed my Notarial Seal this 4th day of December, 1945.

(Notarial Seal)

H. J. GROENER
Notary Public in and for the
State of Illinois, County of Cook, and
residing at Oak Park therein
My Commission Expires April 28, 1948

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State of Illinois }
County of Cook } ss.

.......H. A. Scandrett...., being first duly sworn, deposes and says that he is President of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a corporation organized and existing under the laws of the State of Wisconsin, which executed as mortgagor the Indenture of Mortgage and Deed of Trust to which this affidavit is appended, that the consideration of said mortgage was actual and adequate, that the same was given in good faith for the purposes therein set forth to secure the amount named therein, and without any design to hinder, delay or defraud creditors, and that Continental Illinois National Bank and Trust Company of Chicago, the trustee and mortgagee named in said mortgage, has delivered to said Railroad Company, and said Railroad Company has received, a duplicate copy of said mortgage so executed.

....

Subscribed and sworn to before me this 4th day of December, 1945.

(Notarial Seal)

HENRY L. FORTIER,
Notary Public in and for the
State of Illinois, County of Cook,
Residing at Chicago, therein.
My Commission Expires Feb. 26, 1948.

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 5th day of December A. D. 1945 at 4:22 o'clock P. M. and recorded in Vol. 39 of Railroad Mortgages on pages 15-83, incl.
Robert C. Zimmerman
Assistant Secretary of State

STATE OF ILLINOIS,) SS.
COOK COUNTY.)

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, DO HEREBY CERTIFY that I am the lawful custodian of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of magistracy, that H. J. GROENER whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, was, at the time of taking such proof of acknowledgment, a Notary Public in and for Cook County, duly commissioned, sworn and acting as such and authorized to take acknowledgments and proofs of deeds of conveyances of lands, tenements or hereditaments, in said State of Illinois, and to administer oaths; all of which appears from the records and files in my office; that I am well acquainted with the handwriting of said Notary and verily believe that the signature to the said proof of acknowledgment is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County of Cook at my office in the City of Chicago, in the said County, this 5 day of Dec. 1945.

MICHAEL J. FLYNN County Clerk

(COUNTY CLERK SEAL)

STATE OF ILLINOIS,) SS.
COOK COUNTY.)

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, DO HEREBY CERTIFY that I am the lawful custodian of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of magistracy, that HENRY L. FORTIER whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, was, at the time of taking such proof of acknowledgment, a Notary Public in and for Cook County, duly commissioned, sworn and acting as such and authorized to take acknowledgments and proofs of deeds of conveyances of lands, tenements or hereditaments, in said State of Illinois, and to administer oaths; all of which appears from the records and files in my office; that I am well acquainted with the handwriting of said Notary and verily believe that the signature to the said proof of acknowledgment is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County of Cook at my office in the City of Chicago, in the said County, this 5 day of Dec. 1945.

MICHAEL J. FLYNN County Clerk

(COUNTY CLERK SEAL)

STATE OF ILLINOIS,) SS.
COOK COUNTY.)

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, DO HEREBY CERTIFY that I am the lawful custodian of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of magistracy, that HENRY L. FORTIER whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, was, at the time of taking such proof of acknowledgment, a Notary Public in and for Cook County, duly commissioned, sworn and acting as such and authorized to take acknowledgments and proofs of deeds of conveyances of lands, tenements or hereditaments, in said State of Illinois, and to administer oaths; all of which appears from the records and files in my office; that I am well acquainted with the handwriting of said Notary and verily believe that the signature to the said proof of acknowledgment is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County of Cook at my office in the City of Chicago, in the said County, this 5 day of Dec. 1945.

(COUNTY CLERK SEAL)

MICHAEL J. FLYNN County Clerk

Mortgage Record No. , County,

INDEXED

93,026 words

GENERAL MORTGAGE

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

TO

HARRIS TRUST AND SAVINGS BANK
Trustee

Dated as of January 1, 1944

Filed for record this.....day of.....

A. D. 1945, at.....o'clock.....M.

.....
Recorder or Clerk or Auditor or Register of Deeds

....., Deputy

Fee $.....

This Indenture of Mortgage and Deed of Trust, dated as of the first day of January, One Thousand Nine Hundred Forty-four (hereinafter referred to as the "Mortgage"), between CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a Wisconsin corporation (hereinafter referred to as the "Railroad Company"), having its principal office in the City of Chicago, State of Illinois, party of the first part, and HARRIS TRUST AND SAVINGS BANK, an Illinois corporation (hereinafter referred to as the "Trustee"), having its principal office at 115 West Monroe Street, in the City of Chicago, State of Illinois, party of the second part,

WITNESSETH:

WHEREAS, the Railroad Company is a corporation duly organized and existing under the laws of the State of Wisconsin and is authorized by its articles of incorporation and pursuant to law to acquire, own, lease, construct, extend, maintain and operate a line or lines of railroad in the States of Wisconsin, Michigan, Indiana, Illinois, Minnesota, Iowa, Nebraska, Missouri, Kansas, North Dakota, South Dakota, Montana, Idaho and Washington; and

WHEREAS, the Railroad Company was reorganized pursuant to a certain plan of reorganization certified by order of the Interstate Commerce Commission dated April 10, 1944, in proceedings entitled "Chicago, Milwaukee, St. Paul and Pacific Railroad Company Reorganization, Finance Docket No. 10882," corrected, clarified and approved by the District Court of the United States for the Northern District of Illinois, Eastern Division (hereinafter referred to as the "Court"), by order dated June 30, 1944, and confirmed by the Court by order dated February 23, 1945, in proceedings for the reorganization of a railroad under Section 77 of the Bankruptcy Act, entitled "In the Matter of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, No. 60463" (said plan as so confirmed being hereinafter referred to as the "Plan" and the debtor in said proceedings being hereinafter referred to as the "Debtor"), and said order of confirmation has become final in all respects; and

WHEREAS, pursuant to the Plan and the order of the Court dated November 26, 1945, and by virtue of appropriate conveyances from Henry A. Scandrett, Walter J. Cummings and George I. Haight, as trustees of the Debtor's property, the Railroad Company now owns the several lines of railway and other property and franchises heretofore owned by the Debtor and by said trustees of the Debtor's property; and

WHEREAS, in order to comply with the provisions of the Plan and orders of the Court and to provide funds for its lawful corporate purposes, the Railroad Company has duly determined to issue its General Mortgage Bonds, not limited in aggregate principal amount except as hereinafter provided, to be secured by the Mortgage on the real and personal property of the Railroad Company hereinafter described or referred to as being or to become subject to the lien hereof, such Bonds to be issued in one or more series from time to time, the Bonds of each series to be issued originally either as coupon Bonds registerable as to principal or as registered Bonds without coupons, or both, and all such Bonds to be authenticated by the certificate of the Trustee, all as hereinafter provided; and

WHEREAS, pursuant to the order of the Court dated November 26, 1945, interest payable for the year 1944 on the General Mortgage Bonds of Series A and Series B to be issued under the Plan has been paid, or made available for payment, to the holders of securities of the Debtor to whom such Bonds of Series A and Series B are allotted under the Plan; and

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WHEREAS, in accordance with the Plan, the Reorganization Committee designated pursuant thereto has duly determined the form and provisions (so far as not otherwise specifically provided in the Plan) of the Mortgage and of the Bonds of Series A and Series B to be issued thereunder, and the Court, pursuant to the requirements of the Plan and the power vested in the Court by the Plan to cure any defect, supply any omission or reconcile any inconsistency in such manner and to such extent as may be necessary or expedient to carry out the Plan effectively, has adjusted the Plan in certain respects, and, by order dated November 26, 1945, has approved the form and provisions of the Mortgage and of the Bonds and coupons provided to be issued thereunder; and

WHEREAS, the Bonds of Series A and the interest coupons to be attached to the coupon Bonds of Series A are to be substantially in the following forms, respectively:

(Form of Coupon Bond of Series A)

No..... $.....

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

GENERAL MORTGAGE 4½% INCOME BOND, SERIES A, DUE JANUARY 1, 2019

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a corporation duly organized and existing under the laws of the State of Wisconsin, and having its principal office in the City of Chicago, State of Illinois (herein referred to as the "Railroad Company"), for value received, hereby promises to pay to bearer or, if this Bond be registered as to principal, then to the registered holder hereof, on January 1, 2019, 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 (except as herein otherwise provided) to

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pay interest on said principal sum in like coin or currency from January 1, 1945, at the rate of 4½% per annum, until said principal sum becomes due and payable as herein provided and, if default be made in the payment of said principal sum when so due and payable, thereafter (to the extent permitted by law) at the highest rate of interest borne by any of the Bonds outstanding under the Mortgage hereinafter referred to until the Railroad Company's obligation with respect to the payment of said principal sum shall be discharged as provided in the Mortgage.

Until said principal sum becomes due and payable, interest on this Bond with respect to each calendar year prior to the calendar year immediately preceding the date of maturity of this Bond will become due as a debt on the last day of each such calendar year and will be paid on April 1 of the succeeding calendar year, but only to the extent of Available Net Income of the Railroad Company, as defined and made applicable to the payment of such interest under the terms and provisions of the Mortgage, and only, in the case of interest due on or before the date said principal sum becomes due and payable, upon presentation and surrender of the respective interest coupons hereto appertaining as they shall severally mature. Interest on this Bond for the calendar year 2018 will be paid on January 1, 2019, whether or not the Available Net Income of the Railroad Company is sufficient therefor. To the extent that the Available Net Income of the Railroad Company applicable to the payment of interest on this Bond for any calendar year prior to the year 2018 shall be less than 4½% of such principal sum, such interest shall accrue and accumulate up to but not exceeding 13½% of such principal sum, but interest on this Bond for any calendar year that has become due as a debt on the last day of such calendar year shall not be included in the calculation of such maximum accumulation. Any interest on this Bond that has accumulated as aforesaid and that remains unpaid when said principal sum becomes due and payable or when an event of default as defined in the Mortgage shall occur shall then be due and payable. Accumulations of interest on this Bond shall not bear interest.

The principal of, premium if any, and interest on this Bond

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are payable at the office or agency of the Railroad Company in the City of Chicago, State of Illinois, or at the option of the holder hereof at the office or agency of the Railroad Company in the Borough of Manhattan, City and State of New York.

This Bond is one of the General Mortgage Bonds of the Railroad Company (herein referred to as the "Bonds"), not limited in aggregate principal amount except as provided in the Mortgage, issued and to be issued under, and all equally and proportionately secured by, a mortgage and deed of trust dated as of January 1, 1944 (herein referred to as the "Mortgage"), duly executed and delivered by the Railroad Company to Harris Trust and Savings Bank, Trustee, and its successors in trust (which Trustee and its successors in trust are hereinafter referred to as the "Trustee"), to which Mortgage and all indentures supplemental thereto reference is hereby made for a description of the property mortgaged and pledged, the nature and extent of the security, the rights of and restrictions upon the Railroad Company and the holders of the Bonds and coupons in respect of such security, the rights, duties and immunities of the Trustee and the terms and conditions under which the Bonds are, and may be, issued and secured. By the terms of the Mortgage, the Bonds may be for various principal sums and are issuable in series, and the Bonds of any series may differ from the Bonds of any other series as to denomination, date, maturity, interest rate, redemption and otherwise, all as in the Mortgage provided. Bonds of Series A, of which this is one, are designated as the "General Mortgage 4½% Income Bonds, Series A, due January 1, 2019," and the aggregate principal amount thereof is limited to $57,256,600.

Interest on Bonds of Series A, including any accumulations of such interest, shall be paid or set apart for payment out of Available Net Income of the Railroad Company applicable to the payment of such interest before any interest is paid or set apart for payment out of such Available Net Income on any other series of General Mortgage Bonds.

If an event of default as defined in the Mortgage shall occur, the principal of this Bond may be declared or may become

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due and payable prior to the stated date of maturity hereof in the manner, with the effect and subject to the conditions provided in the Mortgage.

The Mortgage contains provisions permitting the Railroad Company and the Trustee at any time or times, with the consent of the holders of not less than 75% in principal amount of all of the Bonds at the time outstanding, evidenced as in the Mortgage provided, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, to extend the time or times of payment of the principal, either before or after the principal is due, of the Bonds of any or all series then outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, or to extend the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all series then outstanding, whether bearing fixed or contingent interest, for a period not exceeding 5 years after such interest is due but not beyond the original or extended date or dates for the payment of the principal of such Bonds. The Mortgage also contains provisions permitting the Railroad Company and the Trustee at any time or times, with the consent of the holders of not less than 66⅔% in principal amount of all of the Bonds to be directly affected thereby, evidenced as in the Mortgage provided, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, to modify, alter, add to or eliminate in any manner any of the provisions of the Mortgage or of any indenture supplemental thereto or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, or to sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property, or to sanction or approve any plan for the reorganization, readjustment or liquidation of the Railroad Company. Any such consent of the holder of this Bond (unless effectively revoked as provided in the Mortgage) shall be conclusive and binding upon such holder and upon all future holders of this Bond. Without the consent of the holder of this Bond, as

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evidenced by an appropriate legend endorsed hereon, no such extension, modification, alteration, addition, elimination, sanction or approval shall (i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on this Bond, or change the place or the medium of payment thereof, or (ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage or of any indenture supplemental thereto, with respect to any property covered thereby, otherwise than as permitted by the Mortgage, or (iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds.

The Bonds of Series A are entitled to the benefits of annual payments into a sinking fund out of Available Net Income, if any, of the Railroad Company as defined and made applicable for such purpose under the terms of the Mortgage, but such payments may not exceed, for any year, ½ of 1% of the aggregate principal amount of the Bonds of Series A and Series B originally authorized to be issued under the Mortgage, and are not cumulative.

This Bond is subject to redemption at any time prior to maturity for the purpose of sinking funds or at the option of the Railroad Company, in each case upon publication of notice of such redemption once each week for 4 successive weeks in a newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, City and State of New York, and in a like newspaper published on each business day and of general circulation in the City of Chicago, State of Illinois, the first publication to be not less than 60 days and not more than 90 days before the date fixed for redemption if such date is an interest-payment date or if such redemption is for the purpose of sinking funds, and not less than 90 days and not more than 120 days before the date fixed for redemption if such date is not an interest-payment date, all as provided in the Mortgage, at a redemption price equal to the principal amount thereof, plus all unpaid interest on such principal amount that has become due as a debt for prior years, any unpaid accumulations of accrued interest for prior years, and interest on such principal amount from January 1

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of the then current year to the date fixed for redemption, calculated at the rate of 4½% per annum, and (unless such redemption is for the purpose of sinking funds) a premium, if redeemed before January 1, 2019, equal to 1% of such principal amount.

This Bond is transferable by delivery unless registered as to principal. This Bond may be registered as to principal at the office or agency maintained by the Railroad Company in said City of Chicago or in said Borough of Manhattan, on registry books kept for such purpose at such office or agency, such registration being noted hereon, after which no transfer hereof shall be valid unless made on said books at either said office or agency by the registered holder in person or by his attorney duly authorized in writing, and similarly noted hereon; but this Bond may be discharged from such registration by like transfer to bearer noted hereon, whereupon transferability by delivery shall be restored. Such registration, however, shall not affect the transferability by delivery of the coupons for the interest hereon, and such coupons shall continue to be payable to bearer and transferable by delivery.

The Railroad Company, the Trustee, any paying agent and any bond registrar may deem and treat the bearer hereof, or if registered as to principal the registered holder hereof, and the bearer of any interest coupon appertaining hereto whether or not this Bond shall be registered as to principal, as the absolute owner of this Bond or such coupon, as the case may be (whether or not this Bond or such coupon shall have become due and payable), for the purpose of receiving any payment then being made of or on account of the principal hereof, premium if any, and interest hereon, and for all other purposes, and neither the Railroad Company nor the Trustee nor any paying agent nor any bond registrar shall be bound by any notice to the contrary.

The coupon Bonds of this Series are issuable in denominations of $100, $500 and $1,000. The registered Bonds without coupons of this Series are issuable in denominations of $1,000, $5,000 and $10,000, and, with the consent of the Railroad Company, in denominations in excess of $10,000. Upon presentation thereof for that purpose at the office or agency

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maintained by the Railroad Company in said City of Chicago or in said Borough of Manhattan, and in the manner, subject to the limitations, and upon payment of the charges provided in the Mortgage, coupon Bonds of this Series, with all unmatured coupons and any matured coupons in default appertaining thereto, may be exchanged for a like aggregate principal amount of registered Bonds without coupons of this Series of authorized denominations, coupon Bonds of this Series of the denominations of $100 and $500 aggregating $1,000 in principal amount, with all unmatured coupons and any matured coupons in default appertaining thereto, may be exchanged for a coupon Bond of this Series of the denomination of $1,000 bearing all unmatured coupons and any matured coupons in default appertaining thereto, and registered Bonds without coupons of this Series may be exchanged for a like aggregate principal amount of coupon Bonds of this Series of the denomination of $1,000 and bearing all unmatured coupons and any matured coupons in default appertaining thereto, or for a like aggregate principal amount of registered Bonds without coupons of this Series of other authorized denominations. Each registered Bond without coupons of this Series delivered pursuant to the exercise of such privilege of exchange shall carry all of the rights to interest which were carried by this Bond at the time of such exchange.

As provided in the Mortgage, no recourse shall be had for the payment of the principal of or the interest on this Bond, or for any claim based hereon, or because of the creation of indebtedness represented hereby, or otherwise in respect hereof, or based on or in respect of the Mortgage or any indenture supplemental thereto, against any past, present or future incorporator, stockholder, officer or director, as such, of the Railroad Company or of any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

Neither this Bond nor any interest coupon appertaining hereto shall be valid or become obligatory for any purpose

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unless and until the certificate of authentication hereon shall have been signed by the Trustee under the Mortgage.

IN WITNESS WHEREOF, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company has caused this Bond to be signed by its President or one of its Vice Presidents, and its corporate seal to be affixed hereto and attested by its Secretary or an Assistant Secretary, and coupons for interest bearing the facsimile signature of its Treasurer to be attached hereto, and this Bond to be dated as of the first day of January, 1944.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

By .....
President

ATTEST:

.....
Secretary

(Form of Coupon for Coupon Bonds of Series A)

No.....

On the first day of ....., unless the Bond hereinafter mentioned shall have been called for previous redemption and payment thereof duly provided for, Chicago, Milwaukee, St. Paul and Pacific Railroad Company will pay to bearer upon surrender of this coupon at its office or agency in the City of Chicago, State of Illinois, or, at the option of the bearer, at its office or agency in the Borough of Manhattan, City and State of New York, 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, such amount, if any, as shall be payable on said date as interest on its General Mortgage 4½% Income Bond, Series A, due January 1, 2019, No. ....., in accordance with the provisions of said Bond and the Mortgage therein mentioned.

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WHEREAS, in accordance with the Plan, the Reorganization Committee designated pursuant thereto has duly determined the form and provisions (so far as not otherwise specifically provided in the Plan) of the Mortgage and of the Bonds of Series A and Series B to be issued thereunder, and the Court, pursuant to the requirements of the Plan and the power vested in the Court by the Plan to cure any defect, supply any omission or reconcile any inconsistency in such manner and to such extent as may be necessary or expedient to carry out the Plan effectively, has adjusted the Plan in certain respects, and, by order dated November 26, 1945, has approved the form and provisions of the Mortgage and of the Bonds and coupons provided to be issued thereunder; and

WHEREAS, the Bonds of Series A and the interest coupons to be attached to the coupon Bonds of Series A are to be substantially in the following forms, respectively:

(Form of Coupon Bond of Series A)

No..... $.....

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

GENERAL MORTGAGE 4½% INCOME BOND, SERIES A, DUE JANUARY 1, 2019

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a corporation duly organized and existing under the laws of the State of Wisconsin, and having its principal office in the City of Chicago, State of Illinois (herein referred to as the "Railroad Company"), for value received, hereby promises to pay to bearer or, if this Bond be registered as to principal, then to the registered holder hereof, on January 1, 2019, 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 (except as herein otherwise provided) to

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pay interest on said principal sum in like coin or currency from January 1, 1945, at the rate of 4½% per annum, until said principal sum becomes due and payable as herein provided and, if default be made in the payment of said principal sum when so due and payable, thereafter (to the extent permitted by law) at the highest rate of interest borne by any of the Bonds outstanding under the Mortgage hereinafter referred to until the Railroad Company's obligation with respect to the payment of said principal sum shall be discharged as provided in the Mortgage.

Until said principal sum becomes due and payable, interest on this Bond with respect to each calendar year prior to the calendar year immediately preceding the date of maturity of this Bond will become due as a debt on the last day of each such calendar year and will be paid on April 1 of the succeeding calendar year, but only to the extent of Available Net Income of the Railroad Company, as defined and made applicable to the payment of such interest under the terms and provisions of the Mortgage, and only, in the case of interest due on or before the date said principal sum becomes due and payable, upon presentation and surrender of the respective interest coupons hereto appertaining as they shall severally mature. Interest on this Bond for the calendar year 2018 will be paid on January 1, 2019, whether or not the Available Net Income of the Railroad Company is sufficient therefor. To the extent that the Available Net Income of the Railroad Company applicable to the payment of interest on this Bond for any calendar year prior to the year 2018 shall be less than 4½% of such principal sum, such interest shall accrue and accumulate up to but not exceeding 13½% of such principal sum, but interest on this Bond for any calendar year that has become due as a debt on the last day of such calendar year shall not be included in the calculation of such maximum accumulation. Any interest on this Bond that has accumulated as aforesaid and that remains unpaid when said principal sum becomes due and payable or when an event of default as defined in the Mortgage shall occur shall then be due and payable. Accumulations of interest on this Bond shall not bear interest.

The principal of, premium if any, and interest on this Bond

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are payable at the office or agency of the Railroad Company in the City of Chicago, State of Illinois, or at the option of the holder hereof at the office or agency of the Railroad Company in the Borough of Manhattan, City and State of New York.

This Bond is one of the General Mortgage Bonds of the Railroad Company (herein referred to as the "Bonds"), not limited in aggregate principal amount except as provided in the Mortgage, issued and to be issued under, and all equally and proportionately secured by, a mortgage and deed of trust dated as of January 1, 1944 (herein referred to as the "Mortgage"), duly executed and delivered by the Railroad Company to Harris Trust and Savings Bank, Trustee, and its successors in trust (which Trustee and its successors in trust are hereinafter referred to as the "Trustee"), to which Mortgage and all indentures supplemental thereto reference is hereby made for a description of the property mortgaged and pledged, the nature and extent of the security, the rights of and restrictions upon the Railroad Company and the holders of the Bonds and coupons in respect of such security, the rights, duties and immunities of the Trustee and the terms and conditions under which the Bonds are, and may be, issued and secured. By the terms of the Mortgage, the Bonds may be for various principal sums and are issuable in series, and the Bonds of any series may differ from the Bonds of any other series as to denomination, date, maturity, interest rate, redemption and otherwise, all as in the Mortgage provided. Bonds of Series A, of which this is one, are designated as the "General Mortgage 4½% Income Bonds, Series A, due January 1, 2019," and the aggregate principal amount thereof is limited to $57,256,600.

Interest on Bonds of Series A, including any accumulations of such interest, shall be paid or set apart for payment out of Available Net Income of the Railroad Company applicable to the payment of such interest before any interest is paid or set apart for payment out of such Available Net Income on any other series of General Mortgage Bonds.

If an event of default as defined in the Mortgage shall occur, the principal of this Bond may be declared or may become

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due and payable prior to the stated date of maturity hereof in the manner, with the effect and subject to the conditions provided in the Mortgage.

The Mortgage contains provisions permitting the Railroad Company and the Trustee at any time or times, with the consent of the holders of not less than 75% in principal amount of all of the Bonds at the time outstanding, evidenced as in the Mortgage provided, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, to extend the time or times of payment of the principal, either before or after the principal is due, of the Bonds of any or all series then outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, or to extend the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all series then outstanding, whether bearing fixed or contingent interest, for a period not exceeding 5 years after such interest is due but not beyond the original or extended date or dates for the payment of the principal of such Bonds. The Mortgage also contains provisions permitting the Railroad Company and the Trustee at any time or times, with the consent of the holders of not less than 66⅔% in principal amount of all of the Bonds to be directly affected thereby, evidenced as in the Mortgage provided, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, to modify, alter, add to or eliminate in any manner any of the provisions of the Mortgage or of any indenture supplemental thereto or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, or to sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property, or to sanction or approve any plan for the reorganization, readjustment or liquidation of the Railroad Company. Any such consent of the holder of this Bond (unless effectively revoked as provided in the Mortgage) shall be conclusive and binding upon such holder and upon all future holders of this Bond. Without the consent of the holder of this Bond, as

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evidenced by an appropriate legend endorsed hereon, no such extension, modification, alteration, addition, elimination, sanction or approval shall (i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on this Bond, or change the place or the medium of payment thereof, or (ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage or of any indenture supplemental thereto, with respect to any property covered thereby, otherwise than as permitted by the Mortgage, or (iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds.

The Bonds of Series A are entitled to the benefits of annual payments into a sinking fund out of Available Net Income, if any, of the Railroad Company as defined and made applicable for such purpose under the terms of the Mortgage, but such payments may not exceed, for any year, ½ of 1% of the aggregate principal amount of the Bonds of Series A and Series B originally authorized to be issued under the Mortgage, and are not cumulative.

This Bond is subject to redemption at any time prior to maturity for the purpose of sinking funds or at the option of the Railroad Company, in each case upon publication of notice of such redemption once each week for 4 successive weeks in a newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, City and State of New York, and in a like newspaper published on each business day and of general circulation in the City of Chicago, State of Illinois, the first publication to be not less than 60 days and not more than 90 days before the date fixed for redemption if such date is an interest-payment date or if such redemption is for the purpose of sinking funds, and not less than 90 days and not more than 120 days before the date fixed for redemption if such date is not an interest-payment date, all as provided in the Mortgage, at a redemption price equal to the principal amount thereof, plus all unpaid interest on such principal amount that has become due as a debt for prior years, any unpaid accumulations of accrued interest for prior years, and interest on such principal amount from January 1

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of the then current year to the date fixed for redemption, calculated at the rate of 4½% per annum, and (unless such redemption is for the purpose of sinking funds) a premium, if redeemed before January 1, 2019, equal to 1% of such principal amount.

This Bond is transferable by delivery unless registered as to principal. This Bond may be registered as to principal at the office or agency maintained by the Railroad Company in said City of Chicago or in said Borough of Manhattan, on registry books kept for such purpose at such office or agency, such registration being noted hereon, after which no transfer hereof shall be valid unless made on said books at either said office or agency by the registered holder in person or by his attorney duly authorized in writing, and similarly noted hereon; but this Bond may be discharged from such registration by like transfer to bearer noted hereon, whereupon transferability by delivery shall be restored. Such registration, however, shall not affect the transferability by delivery of the coupons for the interest hereon, and such coupons shall continue to be payable to bearer and transferable by delivery.

The Railroad Company, the Trustee, any paying agent and any bond registrar may deem and treat the bearer hereof, or if registered as to principal the registered holder hereof, and the bearer of any interest coupon appertaining hereto whether or not this Bond shall be registered as to principal, as the absolute owner of this Bond or such coupon, as the case may be (whether or not this Bond or such coupon shall have become due and payable), for the purpose of receiving any payment then being made of or on account of the principal hereof, premium if any, and interest hereon, and for all other purposes, and neither the Railroad Company nor the Trustee nor any paying agent nor any bond registrar shall be bound by any notice to the contrary.

The coupon Bonds of this Series are issuable in denominations of $100, $500 and $1,000. The registered Bonds without coupons of this Series are issuable in denominations of $1,000, $5,000 and $10,000, and, with the consent of the Railroad Company, in denominations in excess of $10,000. Upon presentation thereof for that purpose at the office or agency

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maintained by the Railroad Company in said City of Chicago or in said Borough of Manhattan, and in the manner, subject to the limitations, and upon payment of the charges provided in the Mortgage, coupon Bonds of this Series, with all unmatured coupons and any matured coupons in default appertaining thereto, may be exchanged for a like aggregate principal amount of registered Bonds without coupons of this Series of authorized denominations, coupon Bonds of this Series of the denominations of $100 and $500 aggregating $1,000 in principal amount, with all unmatured coupons and any matured coupons in default appertaining thereto, may be exchanged for a coupon Bond of this Series of the denomination of $1,000 bearing all unmatured coupons and any matured coupons in default appertaining thereto, and registered Bonds without coupons of this Series may be exchanged for a like aggregate principal amount of coupon Bonds of this Series of the denomination of $1,000 and bearing all unmatured coupons and any matured coupons in default appertaining thereto, or for a like aggregate principal amount of registered Bonds without coupons of this Series of other authorized denominations. Each registered Bond without coupons of this Series delivered pursuant to the exercise of such privilege of exchange shall carry all of the rights to interest which were carried by this Bond at the time of such exchange.

As provided in the Mortgage, no recourse shall be had for the payment of the principal of or the interest on this Bond, or for any claim based hereon, or because of the creation of indebtedness represented hereby, or otherwise in respect hereof, or based on or in respect of the Mortgage or any indenture supplemental thereto, against any past, present or future incorporator, stockholder, officer or director, as such, of the Railroad Company or of any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

Neither this Bond nor any interest coupon appertaining hereto shall be valid or become obligatory for any purpose

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unless and until the certificate of authentication hereon shall have been signed by the Trustee under the Mortgage.

IN WITNESS WHEREOF, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company has caused this Bond to be signed by its President or one of its Vice Presidents, and its corporate seal to be affixed hereto and attested by its Secretary or an Assistant Secretary, and coupons for interest bearing the facsimile signature of its Treasurer to be attached hereto, and this Bond to be dated as of the first day of January, 1944.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

By .....
President

ATTEST:

.....
Secretary

(Form of Coupon for Coupon Bonds of Series A)

No.....

On the first day of ....., unless the Bond hereinafter mentioned shall have been called for previous redemption and payment thereof duly provided for, Chicago, Milwaukee, St. Paul and Pacific Railroad Company will pay to bearer upon surrender of this coupon at its office or agency in the City of Chicago, State of Illinois, or, at the option of the bearer, at its office or agency in the Borough of Manhattan, City and State of New York, 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, such amount, if any, as shall be payable on said date as interest on its General Mortgage 4½% Income Bond, Series A, due January 1, 2019, No. ....., in accordance with the provisions of said Bond and the Mortgage therein mentioned.

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If no interest shall be payable on said date in accordance with the provisions of said Bond and Mortgage, this coupon shall be void and of no further force and effect.

.....
Treasurer

(Form of Registered Bond without Coupons of Series A)

No..... $.....

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

GENERAL MORTGAGE 4½% INCOME BOND, SERIES A, DUE JANUARY 1, 2019

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a corporation duly organized and existing under the laws of the State of Wisconsin, and having its principal office in the City of Chicago, State of Illinois (herein referred to as the "Railroad Company"), for value received, hereby promises to pay to..... or registered assigns, on January 1, 2019, 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 (except as herein otherwise provided) to pay interest on said principal sum in like coin or currency from January 1, 1945, at the rate of 4½% per annum, until said principal sum becomes due and payable as herein provided and, if default be made in the payment of said principal sum when so due and payable, thereafter (to the extent permitted by law) at the highest rate of interest borne by any of the Bonds outstanding under the Mortgage hereinafter referred to until the Railroad Company's obligation with respect to the payment of said principal sum shall be discharged as provided in the Mortgage.

Until said principal sum becomes due and payable, interest on this Bond with respect to each calendar year prior to the calendar year immediately preceding the date of maturity of this Bond will become due as a debt on the last day of each

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such calendar year and will be paid on April 1 of the succeeding calendar year but only to the extent of Available Net Income of the Railroad Company, as defined and made applicable to the payment of such interest under the terms and provisions of the Mortgage. Interest on this Bond for the calendar year 2018 will be paid on January 1, 2019, whether or not the Available Net Income of the Railroad Company is sufficient therefor. To the extent that the Available Net Income of the Railroad Company applicable to the payment of interest on this Bond for any calendar year prior to the year 2018 shall be less than 4½% of such principal sum, such interest shall accrue and accumulate up to but not exceeding 13½% of such principal sum, but interest on this Bond for any calendar year that has become due as a debt on the last day of such calendar year shall not be included in the calculation of such maximum accumulation. Any interest on this Bond that has accumulated as aforesaid and that remains unpaid when said principal sum becomes due and payable or when an event of default as defined in the Mortgage shall occur shall then be due and payable. Accumulations of interest on this Bond shall not bear interest.

The principal of, premium if any, and interest on this Bond are payable at the office or agency of the Railroad Company in the City of Chicago, State of Illinois, or at the option of the registered holder hereof at the office or agency of the Railroad Company in the Borough of Manhattan, City and State of New York.

This Bond is one of the General Mortgage Bonds of the Railroad Company (herein referred to as the "Bonds"), not limited in aggregate principal amount except as provided in the Mortgage, issued and to be issued under, and all equally and proportionately secured by, a mortgage and deed of trust dated as of January 1, 1944 (herein referred to as the "Mortgage"), duly executed and delivered by the Railroad Company to Harris Trust and Savings Bank, Trustee, and its successors in trust (which Trustee and its successors in trust are hereinafter referred to as the "Trustee"), to which Mortgage and all indentures supplemental thereto reference is hereby made for a description of the property mortgaged and pledged, the nature and extent of the security, the rights

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of and restrictions upon the Railroad Company and the holders of the Bonds and coupons in respect of such security, the rights, duties and immunities of the Trustee and the terms and conditions under which the Bonds are, and may be, issued and secured. By the terms of the Mortgage, the Bonds may be for various principal sums and are issuable in series, and the Bonds of any series may differ from the Bonds of any other series as to denomination, date, maturity, interest rate, redemption and otherwise, all as in the Mortgage provided. Bonds of Series A, of which this is one, are designated as the "General Mortgage 4½% Income Bonds, Series A, due January 1, 2019," and the aggregate principal amount thereof is limited to $57,256,600.

Interest on Bonds of Series A, including any accumulations of such interest, shall be paid or set apart for payment out of Available Net Income of the Railroad Company applicable to the payment of such interest before any interest is paid or set apart for payment out of such Available Net Income on any other series of General Mortgage Bonds.

If an event of default as defined in the Mortgage shall occur, the principal of this Band may be declared or may become due and payable prior to the stated date of maturity hereof in the manner, with the effect and subject to the conditions provided in the Mortgage.

The Mortgage contains provisions permitting the Railroad Company and the Trustee at any time or times, with the consent of the holders of not less than 75% in principal amount of all of the Bonds at the time outstanding, evidenced as in the Mortgage provided, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, to extend the time or times of payment of the principal, either before or after the principal is due, of the Bonds of any or all series then outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, or to extend the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all series then outstanding, whether bearing fixed or con-

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tingent interest, for a period not exceeding 5 years after such interest is due but not beyond the original or extended date or dates for the payment of the principal of such Bonds. The Mortgage also contains provisions permitting the Railroad Company and the Trustee at any time or times, with the consent of the holders of not less than 66⅔% in principal amount of all of the Bonds to be directly affected thereby, evidenced as in the Mortgage provided, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, to modify, alter, add to or eliminate in any manner any of the provisions of the Mortgage or of any indenture supplemental thereto or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, or to sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property, or to sanction or approve any plan for the reorganization, readjustment or liquidation of the Railroad Company. Any such consent of the holder of this Bond (unless effectively revoked as provided in the Mortgage) shall be conclusive and binding upon such holder and upon all future holders of this Bond. Without the consent of the holder of this Bond, as evidenced by an appropriate legend endorsed hereon, no such extension, modification, alteration, addition, elimination, sanction or approval shall (i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on this Bond, or change the place or the medium of payment thereof, or (ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage or of any indenture supplemental thereto, with respect to any property covered thereby, otherwise than as permitted by the Mortgage, or (iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds.

The Bonds of Series A are entitled to the benefits of annual payments into a sinking fund out of Available Net Income, if any, of the Railroad Company as defined and made applicable for such purpose under the terms of the Mortgage, but such payments may not exceed, for any year, ½ of 1% of the aggregate principal amount of the Bonds of Series A

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and Series B originally authorized to be issued under the Mortgage, and are not cumulative.

This Bond, or portions thereof amounting to $1,000 or multiples of $1,000, is subject to redemption at any time prior to maturity for the purpose of sinking funds or at the option of the Railroad Company, in each case upon publication of notice of such redemption once each week for 4 successive weeks in a newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, City and State of New York, and in a like newspaper published on each business day and of general circulation in the City of Chicago, State of Illinois, the first publication to be not less than 60 days and not more than 90 days before the date fixed for redemption if such date is an interest-payment date or if such redemption is for the purpose of sinking funds, and not less than 90 days and not more than 120 days before the date fixed for redemption if such date is not an interest-payment date, all as provided in the Mortgage, at a redemption price equal to the principal amount to be redeemed, plus all unpaid interest on such principal amount that has become due as a debt for prior years, any unpaid accumulations of accrued interest for prior years, and interest on such principal amount from January 1 of the then current year to the date fixed for redemption, calculated at the rate of 4½% per annum, and (unless such redemption is for the purpose of sinking funds) a premium, if redeemed before January 1, 2019, equal to 1% of such principal amount.

This Bond is transferable by the registered holder hereof in person (or by his attorney duly authorized in writing) at the office or agency maintained by the Railroad Company in said City of Chicago or in said Borough of Manhattan, on registry books kept for such purpose at such office or agency, but only in the manner, subject to the limitations, upon payment of the charges provided in the Mortgage, and upon surrender and cancellation of this Bond. Upon any such transfer a new registered Bond or Bonds without coupons of the same series and maturity date and of authorized denominations for the same aggregate principal amount will be issued to the transferee in exchange therefor.

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Each registered Bond without coupons of this Series delivered, pursuant to the exercise of any privilege of transfer or exchange, or in substitution, for the whole or any part of one or more other Bonds of this Series shall carry all of the rights to interest which were carried by the whole or such part of such one or more other Bonds of this Series at the time of transfer, exchange or substitution. In case this Bond shall have been delivered upon the exercise of any privilege of transfer or exchange or in substitution, as aforesaid, interest shall be deemed to have been paid on this Bond to the extent paid, made available for payment, or under a provision similar to this deemed to have been paid, on an equal principal amount of the Bond or Bonds for which this Bond was transferred, exchanged or substituted.

The Railroad Company, the Trustee, any paying agent and any bond registrar may deem and treat the registered holder hereof as the absolute owner of this Bond (whether or not this Bond shall have become due and payable), for the purpose of receiving any payment then being made of or on account of the principal hereof, premium if any, and interest hereon, and for all other purposes, and neither the Railroad Company nor the Trustee nor any paying agent nor any bond registrar shall be bound by any notice to the contrary.

The coupon Bonds of this Series are issuable in denominations of $100, $500 and $1,000. The registered Bonds without coupons of this Series are issuable in denominations of $1,000, $5,000 and $10,000, and, with the consent of the Railroad Company, in denominations in excess of $10,000. Upon presentation thereof for that purpose at the office or agency maintained by the Railroad Company in said City of Chicago or in said Borough of Manhattan, and in the manner, subject to the limitations, and upon payment of the charges provided in the Mortgage, coupon Bonds of this Series, with all unmatured coupons and any matured coupons in default appertaining thereto, may be exchanged for a like aggregate principal amount of registered Bonds without coupons of this Series of authorized denominations, coupon Bonds of this Series of the denominations of $100 and $500 aggregating $1,000 in principal amount, with all unmatured coupons and any matured coupons in default appertaining thereto, may be exchanged for a coupon Bond of this Series

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of the denomination of $1,000 bearing all unmatured coupons and any matured coupons in default appertaining thereto, and registered Bonds without coupons of this Series may be exchanged for a like aggregate principal amount of coupon Bonds of this Series of the denomination of $1,000 and bearing all unmatured coupons and any matured coupons in default appertaining thereto, or for a like aggregate principal amount of registered Bonds without coupons of this Series of other authorized denominations.

As provided in the Mortgage, no recourse shall be had for the payment of the principal of or the interest on this Bond, or for any claim based hereon, or because of the creation of indebtedness represented hereby, or otherwise in respect hereof, or based on or in respect of the Mortgage or any indenture supplemental thereto against any past, present or future incorporator, stockholder, officer or director, as such, of the Railroad Company or of any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

This Bond shall not be valid or become obligatory for any purpose unless and until the certificate of authentication hereon shall have been signed by the Trustee under the Mortgage.

IN WITNESS WHEREOF, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company has caused this Bond to be signed by its President or one of its Vice Presidents, and its corporate seal to be affixed hereto and attested by its Secretary or an Assistant Secretary, and this Bond to be dated as of the first day of January, 1944.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

By .....
President

ATTEST:

.....
Secretary

and

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WHEREAS, the Bonds of Series B and the interest coupons to be attached to the coupon Bonds of Series B are to be substantially in the following forms, respectively:

(Form of Coupon Bond of Series B)

No..... $.....

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

GENERAL MORTGAGE 4½% CONVERTIBLE INCOME BOND, SERIES B, DUE JANUARY 1, 2044

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a corporation duly organized and existing under the laws of the State of Wisconsin, and having its principal office in the City of Chicago, State of Illinois (herein referred to as the "Railroad Company"), for value received, hereby promises to pay to bearer or, if this Bond be registered as to principal, then to the registered holder hereof, on January 1, 2044, 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 (except as herein otherwise provided) to pay interest on said principal sum in like coin or currency from January 1, 1945, at the rate of 4½% per annum, until said principal sum becomes due and payable as herein provided and, if default be made in the payment of said principal sum when so due and payable, thereafter (to the extent permitted by law) at the highest rate of interest borne by any of the Bonds outstanding under the Mortgage hereinafter referred to until the Railroad Company's obligation with respect to the payment of said principal sum shall be discharged as provided in the Mortgage.

Until said principal sum becomes due and payable, interest on this Bond with respect to each calendar year prior to the calendar year immediately preceding the date of maturity of this Bond will become due as a debt on the last day of each such calendar year and will be paid on April 1 of the succeeding calendar year, but only to the extent of Available Net

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Income of the Railroad Company, as defined and made applicable to the payment of such interest under the terms and provisions of the Mortgage, and only, in the case of interest due on or before the date said principal sum becomes due and payable, upon presentation and surrender of the respective interest coupons hereto appertaining as they shall severally mature. Interest on this Bond for the calendar year 2043 will be paid on January 1, 2044, whether or not the Available Net Income of the Railroad Company is sufficient therefor. To the extent that the Available Net Income of the Railroad Company applicable to the payment of interest on this Bond for any calendar year prior to the year 2043 shall be less than 4½% of such principal sum, such interest shall accrue and accumulate up to but not exceeding 13½% of such principal sum, but interest on this Bond for any calendar year that has become due as a debt on the last day of such calendar year shall not be included in the calculation of such maximum accumulation. Any interest on this Bond that has accumulated as aforesaid and that remains unpaid when said principal sum becomes due and payable or when an event of default as defined in the Mortgage shall occur shall then be due and payable. Accumulations of interest on this Bond shall not bear interest.

No interest will be payable on Bonds of Series B in any calendar year unless and until there shall have been paid or set apart for payment, out of Available Net Income of the Railroad Company applicable thereto, all interest and unpaid accumulations of accrued interest then payable on Bonds of Series A issued under the Mortgage in accordance with the provisions of the Mortgage.

The principal of, premium if any, and interest on this Bond are payable at the office or agency of the Railroad Company in the City of Chicago, State of Illinois, or at the option of the holder hereof at the office or agency of the Railroad Company in the Borough of Manhattan, City and State of New York.

This Bond is one of the General Mortgage Bonds of the Railroad Company (herein referred to as the "Bonds"), not limited in aggregate principal amount except as provided in the Mortgage, issued and to be issued under, and all equally and proportionately secured by, a mortgage and deed of trust

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dated as of January 1, 1944 (herein referred to as the "Mortgage"), duly executed and delivered by the Railroad Company to Harris Trust and Savings Bank, Trustee, and its successors in trust (which Trustee and its successors in trust are hereinafter referred to as the "Trustee"), to which Mortgage and all indentures supplemental thereto reference is hereby made for a description of the property mortgaged and pledged, the nature and extent of the security, the rights of and restrictions upon the Railroad Company and the holders of the Bonds and coupons in respect of such security, the rights, duties and immunities of the Trustee and the terms and conditions under which the Bonds are, and may be, issued and secured. By the terms of the Mortgage, the Bonds may be for various principal sums and are issuable in series, and the Bonds of any series may differ from the Bonds of any other series as to denomination, date, maturity, interest rate, redemption and otherwise, all as in the Mortgage provided. Bonds of Series B, of which this is one, are designated as the "General Mortgage 4½% Convertible Income Bonds, Series B, due January 1, 2044," and the aggregate principal amount thereof is limited to $51,422,100.

If an event of default as defined in the Mortgage shall occur, the principal of this Bond may be declared or may become due and payable prior to the stated date of maturity hereof in the manner, with the effect and subject to the conditions provided in the Mortgage.

The Mortgage contains provisions permitting the Railroad Company and the Trustee at any time or times, with the consent of the holders of not less than 75% in principal amount of all of the Bonds at the time outstanding, evidenced as in the Mortgage provided, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, to extend the time or times of payment of the principal, either before or after the principal is due, of the Bonds of any or all series then outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, or to extend the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the

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Bonds of any or all series then outstanding, whether bearing fixed or contingent interest, for a period not exceeding 5 years after such interest is due but not beyond the original or extended date or dates for the payment of the principal of such Bonds. The Mortgage also contains provisions permitting the Railroad Company and the Trustee at any time or times, with the consent of the holders of not less than 66⅔% in principal amount of all of the Bonds to be directly affected thereby, evidenced as in the Mortgage provided, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, to modify, alter, add to or eliminate in any manner any of the provisions of the Mortgage or of any indenture supplemental thereto or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, or to sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property, or to sanction or approve any plan for the reorganization, readjustment or liquidation of the Railroad Company. Any such consent of the holder of this Bond (unless effectively revoked as provided in the Mortgage) shall be conclusive and binding upon such holder and upon all future holders of this Bond. Without the consent of the holder of this Bond, as evidenced by an appropriate legend endorsed hereon, no such extension, modification, alteration, addition, elimination, sanction or approval shall (i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on this Bond, or change the place or the medium of payment thereof, or (ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage or of any indenture supplemental thereto, with respect to any property covered thereby, otherwise than as permitted by the Mortgage, or (iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds.

The Bonds of Series B are entitled, after the retirement of all Bonds of Series A, to the benefits of annual payments into a sinking fund out of Available Net Income, if any, of the Railroad Company as defined and made applicable for such purpose under the terms of the Mortgage, but such payments may not exceed, for any year, ½ of 1% of the ag-

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gregate principal amount of the Bonds of Series A and Series B originally authorized to be issued under the Mortgage, and are not cumulative.

This Bond is subject to redemption at any time prior to maturity for the purpose of sinking funds or at the option of the Railroad Company, in each case upon publication of notice of such redemption once each week for 4 successive weeks in a newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, City and State of New York, and in a like newspaper published on each business day and of general circulation in the City of Chicago, State of Illinois, the first publication to be not less than 60 days and not more than 90 days before the date fixed for redemption if such date is an interest-payment date or if such redemption is for the purpose of sinking funds and not less than 90 days and not more than 120 days before the date fixed for redemption if such date is not an interest-payment date, all as provided in the Mortgage, at a redemption price equal to the principal amount thereof plus all unpaid interest on such principal amount that has become due as a debt for prior years, any unpaid accumulations of accrued interest for prior years, and interest on such principal amount from January 1 of the then current year to the date fixed for redemption, calculated at the rate of 4½% per annum, and (unless such redemption is for the purpose of sinking funds) a premium, if redeemed on or before January 1, 2019, equal to 1% of such principal amount.

As provided in the Mortgage, this Bond is convertible, at the option of the holder hereof, at any time prior to maturity (or, if this Bond be at any time called for prior redemption, then at any time on or before the date fixed for redemption, or in case said date shall be a legal holiday then on or before the first business day thereafter) upon surrender of this Bond for that purpose at the office or agency of the Railroad Company in the City of Chicago, State of Illinois, or in the Borough of Manhattan, City and State of New York, into Common Stock of the Railroad Company, upon the basis of one fully paid and nonassessable share of such Common Stock for each $100 of the principal sum hereof; subject to the provisions of the Mortgage as to interest on Bonds converted and

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dividends on stock received therefor, as to issuance of voting trust certificates in lieu of stock certificates and scrip in lieu of fractional shares, and as to change in the conversion basis or substitution of other stock, securities or property in the event of consolidation, merger, conveyance of assets, recapitalization or the issuance of additional shares.

This Bond is transferable by delivery unless registered as to principal. This Bond may be registered as to principal at the office or agency maintained by the Railroad Company in said City of Chicago or in said Borough of Manhattan, on registry books kept for such purpose at such office or agency, such registration being noted hereon, after which no transfer hereof shall be valid unless made on said books at either said office or agency by the registered holder in person or by his attorney duly authorized in writing, and similarly noted hereon; but this Bond may be discharged from such registration by like transfer to bearer noted hereon, whereupon transferability by delivery shall be restored. Such registration, however, shall not affect the transferability by delivery of the coupons for the interest hereon, and such coupons shall continue to be payable to bearer and transferable by delivery.

The Railroad Company, the Trustee, any paying agent and any bond registrar may deem and treat the bearer hereof, or if registered as to principal the registered holder hereof, and the bearer of any interest coupon appertaining hereto whether or not this Bond shall be registered as to principal, as the absolute owner of this Bond or such coupon, as the case may be (whether or not this Bond or such coupon shall have become due and payable), for the purpose of receiving any payment then being made of or on account of the principal hereof, premium if any, and interest hereon, and for all other purposes, and neither the Railroad Company nor the Trustee nor any paying agent nor any bond registrar shall be bound by any notice to the contrary.

The coupon Bonds of this Series are issuable in denominations of $100, $500 and $1,000. The registered Bonds without coupons of this Series are issuable in denominations of $1,000, $5,000 and $10,000, and, with the consent of the Railroad Company, in denominations in excess of $10,000. Upon presentation thereof for that purpose at the office or agency maintained by the Railroad Company in said City of Chicago

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or in said Borough of Manhattan, and in the manner, subject to the limitations, and upon payment of the charges provided in the Mortgage, coupon Bonds of this Series, with all unmatured coupons and any matured coupons in default appertaining thereto, may be exchanged for a like aggregate principal amount of registered Bonds without coupons of this Series of authorized denominations, coupon Bonds of this Series of the denominations of $100 and $500 aggregating $1,000 in principal amount, with all unmatured coupons and any matured coupons in default appertaining thereto, may be exchanged for a coupon Bond of this Series of the denomination of $1,000 bearing all unmatured coupons and any matured coupons in default appertaining thereto, and registered Bonds without coupons of this Series may be exchanged for a like aggregate principal amount of coupon Bonds of this Series of the denomination of $1,000 and bearing all unmatured coupons and any matured coupons in default appertaining thereto, or for a like aggregate principal amount of registered Bonds without coupons of this Series of other authorized denominations. Each registered Bond without coupons of this Series delivered pursuant to the exercise of such privilege of exchange shall carry all of the rights to interest which were carried by this Bond at the time of such exchange.

As provided in the Mortgage, no recourse shall be had for the payment of the principal of or the interest on this Bond, or for any claim based hereon, or because of the creation of indebtedness represented hereby, or otherwise in respect hereof, or based on or in respect of the Mortgage or any indenture supplemental thereto, against any past, present or future incorporator, stockholder, officer or director, as such, of the Railroad Company or of any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

Neither this Bond nor any interest coupon appertaining hereto shall be valid or become obligatory for any purpose unless and until the certificate of authentication hereon shall have been signed by the Trustee under the Mortgage.

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IN WITNESS WHEREOF, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company has caused this Bond to be signed by its President or one of its Vice Presidents, and its corporate seal to be affixed hereto and attested by its Secretary or an Assistant Secretary, and coupons for interest bearing the facsimile signature of its Treasurer to be attached hereto, and this Bond to be dated as of the first day of January, 1944.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

By .....
President

ATTEST:

.....
Secretary

(Form of Coupon for Coupon Bonds of Series B)

No.....

On the first day of ....., unless the Bond hereinafter mentioned shall have been called for previous redemption and payment thereof duly provided for, or shall have been surrendered for conversion into Common Stock prior to January 1 of said year, Chicago, Milwaukee, St. Paul and Pacific Railroad Company will pay to bearer upon surrender of this coupon at its office or agency in the City of Chicago, State of Illinois, or, at the option of the bearer, at its office or agency in the Borough of Manhattan, City and State of New York, 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, such amount, if any, as shall be payable on said date as interest on its General Mortgage 4½% Convertible Income Bond, Series B, due January 1, 2044, No. ....., in accordance with the provisions of said Bond and the Mortgage therein mentioned.

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If no interest shall be payable on said date in accordance with the provisions of said Bond and Mortgage, this coupon shall be void and of no further force and effect.

.....
Treasurer

(Form of Registered Bond without Coupons of Series B)

No..... $.....

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

GENERAL MORTGAGE 4½% CONVERTIBLE INCOME BOND, SERIES B, DUE JANUARY 1, 2044

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a corporation duly organized and existing under the laws of the State of Wisconsin, and having its principal office in the City of Chicago, State of Illinois (herein referred to as the "Railroad Company"), for value received, hereby promises to pay to .....,
or registered assigns, on January 1, 2044, 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 (except as herein otherwise provided) to pay interest on said principal sum in like coin or currency from January 1, 1945, at the rate of 4½% per annum, until said principal sum becomes due and payable as herein provided and, if default be made in the payment of said principal sum when so due and payable, thereafter (to the extent permitted by law) at the highest rate of interest borne by any of the Bonds outstanding under the Mortgage hereinafter referred to until the Railroad Company's obligation with respect to the payment of said principal sum shall be discharged as provided in the Mortgage.

Until said principal sum becomes due and payable, interest on this Bond with respect to each calendar year prior to the calendar year immediately preceding the date of maturity of this Bond will become due as a debt on the last day of each

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such calendar year and will be paid on April 1 of the succeeding calendar year, but only to the extent of Available Net Income of the Railroad Company as defined and made applicable to the payment of such interest under the terms and provisions of the Mortgage. Interest on this Bond for the calendar year 2043 will be paid on January 1, 2044, whether or not the Available Net Income of the Railroad Company is sufficient therefor. To the extent that the Available Net Income of the Railroad Company applicable to the payment of interest on this Bond for any calendar year prior to the year 2043 shall be less than 4½% of such principal sum, such interest shall accrue and accumulate up to but not exceeding 13½% of such principal sum, but interest on this Bond for any calendar year that has become due as a debt on the last day of such calendar year shall not be included in the calculation of such maximum accumulation. Any interest on this Bond that has accumulated as aforesaid and that remains unpaid when said principal sum becomes due and payable or when an event of default as defined in the Mortgage shall occur shall then be due and payable. Accumulations of interest on this Bond shall not bear interest.

No interest will be payable on Bonds of Series B in any calendar year unless and until there shall have been paid or set apart for payment, out of Available Net Income of the Railroad Company applicable thereto, all interest and unpaid accumulations of accrued interest then payable on Bonds of Series A issued under the Mortgage in accordance with the provisions of the Mortgage.

The principal of, premium if any, and interest on this Bond are payable at the office or agency of the Railroad Company in the City of Chicago, State of Illinois, or at the option of the registered holder hereof at the office or agency of the Railroad Company in the Borough of Manhattan, City and State of New York.

This Bond is one of the General Mortgage Bonds of the Railroad Company (herein referred to as the "Bonds"), not limited in aggregate principal amount except as provided in the Mortgage, issued and to be issued under, and all equally and proportionately secured by, a mortgage and deed of trust dated as of January 1, 1944 (herein referred to as the "Mort-

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gage"), duly executed and delivered by the Railroad Company to Harris Trust and Savings Bank, Trustee, and its successors in trust (which Trustee and its successors in trust are hereinafter referred to as the "Trustee"), to which Mortgage and all indentures supplemental thereto reference is hereby made for a description of the property mortgaged and pledged, the nature and extent of the security, the rights of and restrictions upon the Railroad Company and the holders of the Bonds and coupons in respect of such security, the rights, duties and immunities of the Trustee and the terms and conditions under which the Bonds are, and may be, issued and secured. By the terms of the Mortgage, the Bonds may be for various principal sums and are issuable in series, and the Bonds of any series may differ from the Bonds of any other series as to denomination, date, maturity, interest rate, redemption and otherwise, all as in the Mortgage provided. Bonds of Series B, of which this is one, are designated as the "General Mortgage 4½% Convertible Income Bonds, Series B, due January 1, 2044," and the aggregate principal amount thereof is limited to $51,422,100

If an event of default as defined in the Mortgage shall occur, the principal of this Bond may be declared or may become due and payable prior to the stated date of maturity hereof in the manner, with the effect and subject to the conditions provided in the Mortgage.

The Mortgage contains provisions permitting the Railroad Company and the Trustee at any time or times, with the consent of the holders of not less than 75% in principal amount of all of the Bonds at the time outstanding, evidenced as in the Mortgage provided, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, to extend the time or times of payment of the principal, either before or after the principal is due, of the Bonds of any or all series then outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, or to extend the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all

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series then outstanding, whether bearing fixed or contingent interest, for a period not exceeding 5 years after such interest is due but not beyond the original or extended date or dates for the payment of the principal of such Bonds. The Mortgage also contains provisions permitting the Railroad Company and the Trustee at any time or times, with the consent of the holders of not less than 66⅔% in principal amount of all of the Bonds to be directly affected thereby, evidenced as in the Mortgage provided, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, to modify, alter, add to or eliminate in any manner any of the provisions of the Mortgage or of any indenture supplemental thereto or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, or to sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property, or to sanction or approve any plan for the reorganization, readjustment or liquidation of the Railroad Company. Any such consent of the holder of this Bond (unless effectively revoked as provided in the Mortgage) shall be conclusive and binding upon such holder and upon all future holders of this Bond. Without the consent of the holder of this Bond, as evidenced by an appropriate legend endorsed hereon, no such extension, modification, alteration, addition, elimination, sanction or approval shall (i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on this Bond, or change the place or the medium of payment thereof, or (ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage or of any indenture supplemental thereto, with respect to any property covered thereby, otherwise than as permitted by the Mortgage, or (iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds.

The Bonds of Series B are entitled, after the retirement of all Bonds of Series A, to the benefits of annual payments into a sinking fund out of Available Net Income, if any, of the Railroad Company as defined and made applicable for such purpose under the terms of the Mortgage, but

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such payments may not exceed, for any year, ½ of 1% of the aggregate principal amount of the Bonds of Series A and Series B originally authorized to be issued under the Mortgage, and are not cumulative.

This Bond, or portions thereof amounting to $1,000 or multiples of $1,000, is subject to redemption at any time prior to maturity for the purpose of sinking funds or at the option of the Railroad Company, in each case upon publication of notice of such redemption once each week for 4 successive weeks in a newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, City and State of New York, and in a like newspaper published on each business day and of general circulation in the City of Chicago, State of Illinois, the first publication to be not less than 60 days and not more than 90 days before the date fixed for redemption if such date is an interest-payment date or if such redemption is for the purpose of sinking funds, and not less than 90 days and not more than 120 days before the date fixed for redemption if such date is not an interest-payment date, all as provided in the Mortgage, at a redemption price equal to the principal amount to be redeemed, plus all unpaid interest on such principal amount that has become due as a debt for prior years, any unpaid accumulations of accrued interest for prior years, and interest on such principal amount from January 1 of the then current year to the date fixed for redemption, calculated at the rate of 4½% per annum, and (unless such redemption is for the purpose of sinking funds) a premium, if redeemed on or prior to January 1, 2019, equal to 1% of such principal amount.

As provided in the Mortgage, this Bond is convertible, at the option of the holder hereof, at any time prior to maturity (or, if this Bond be at any time called for prior redemption, then at any time on or before the date fixed for redemption, or in case said date shall be a legal holiday then, on or before the first business day thereafter) upon surrender of this Bond for that purpose at the office or agency of the Railroad Company in the City of Chicago, State of Illinois, or in the Borough of Manhattan, City and State of New York, into Common Stock of the Railroad Company, upon the basis of one fully paid and nonassessable share of

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such Common Stock for each $100 of the principal sum hereof; subject to the provisions of the Mortgage as to interest on Bonds converted and dividends on stock received therefor, as to issuance of voting trust certificates in lieu of stock certificates and scrip in lieu of fractional shares, and as to change in the conversion basis or substitution of other stock, securities or property in the event of consolidation, merger, conveyance of assets, recapitalization or the issuance of additional shares.

This Bond is transferable by the registered holder hereof in person (or by his attorney duly authorized in writing) at the office or agency maintained by the Railroad Company in said City of Chicago or in said Borough of Manhattan, on registry books kept for such purpose at such office or agency, but only in the manner, subject to the limitations, upon payment of the charges provided in the Mortgage, and upon surrender and cancellation of this Bond. Upon any such transfer a new registered Bond or Bonds without coupons of the same series and maturity date and of authorized denominations for the same aggregate principal amount will be issued to the transferee in exchange therefor.

Each registered Bond without coupons of this Series delivered, pursuant to the exercise of any privilege of transfer or exchange, or in substitution, for the whole or any part of one or more other Bonds of this Series shall carry all of the rights to interest which were carried by the whole or such part of such one or more other Bonds of this Series at the time of transfer, exchange or substitution. In case this Bond shall have been delivered upon the exercise of any privilege of transfer or exchange or in substitution, as aforesaid, interest shall be deemed to have been paid on this Bond to the extent paid, made available for payment, or under a provision similar to this deemed to have been paid, on an equal principal amount of the Bond or Bonds for which this Bond was transferred, exchanged or substituted.

The Railroad Company, the Trustee, any paying agent and any bond registrar may deem and treat the registered holder hereof as the absolute owner of this Bond (whether or not this Bond shall have become due and payable), for the purpose of receiving any payment then being made of or on account of the principal hereof, premium if any, and interest hereon, and

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for all other purposes, and neither the Railroad Company nor the Trustee nor any paying agent nor any bond registrar shall be bound by any notice to the contrary.

The coupon Bonds of this Series are issuable in denominations of $100, $500 and $1,000. The registered Bonds without coupons of this Series are issuable in denominations of $1,000, $5,000 and $10,000, and, with the consent of the Railroad Company, in denominations in excess of $10,000. Upon presentation thereof for that purpose at the office or agency maintained by the Railroad Company in said City of Chicago or in said Borough of Manhattan, and in the manner, subject to the limitations, and upon payment of the charges provided in the Mortgage, coupon Bonds of this Series, with all unmatured coupons and any matured coupons in default appertaining thereto, may be exchanged for a like aggregate principal amount of registered Bonds without coupons of this Series of authorized denominations, coupon Bonds of this Series of the denominations of $100 and $500 aggregating $1,000 in principal amount, with all unmatured coupons and any matured coupons in default appertaining thereto, may be exchanged for a coupon Bond of this Series of the denomination of $1,000 bearing all unmatured coupons and any matured coupons in default appertaining thereto, and registered Bonds without coupons of this Series may be exchanged for a like aggregate principal amount of coupon Bonds of this Series of the denomination of $1,000 and bearing all unmatured coupons and any matured coupons in default appertaining thereto, or for a like aggregate principal amount of registered Bonds without coupons of this Series of other authorized denominations.

As provided in the Mortgage, no recourse shall be had for the payment of the principal of or the interest on this Bond, or for any claim based hereon, or because of the creation of indebtedness represented hereby, or otherwise in respect hereof, or based on or in respect of the Mortgage or any indenture supplemental thereto, against any past, present or future incorporator, stockholder, officer or director, as such, of the Railroad Company or of any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as

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part of the consideration for the issue hereof, expressly waived and released.

This Bond shall not be valid or become obligatory for any purpose unless and until the certificate of authentication hereon shall have been signed by the Trustee under the Mortgage.

IN WITNESS WHEREOF, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company has caused this Bond to be signed by its President or one of its Vice Presidents, and its corporate seal to be affixed hereto and attested by its Secretary or an Assistant Secretary, and this Bond to be dated as of the first day of January, 1944.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

By .....
President

ATTEST:

.....
Secretary

and

WHEREAS, the Trustee's certificate of authentication to be endorsed on the Bonds of all series is to be substantially in the following form:

(Form of Trustee's Certificate of Authentication on Bonds of all Series)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION.

This is one of the Bonds of Series ..... described in the above-mentioned Mortgage.

.....
As Trustee

By.....
Authorized Officer

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and

WHEREAS, the Bonds of series other than Series A and Series B and the coupons to be attached to such thereof as may be coupon Bonds are to be substantially in the forms hereinabove set forth for the Bonds of Series A and Series B, but with such omissions, insertions and variations as may be authorized and permitted by the Mortgage; and

WHEREAS, the execution and delivery of this Mortgage have been authorized by resolutions duly adopted by the stockholders and Board of Directors of the Railroad Company as reorganized, and are in accordance with the orders of the Court; and

WHEREAS, all acts and things prescribed by law and by the articles of incorporation and by-laws of the Railroad Company necessary to make the Bonds of Series A and Series B when executed by the Railroad Company and authenticated by the Trustee, as in the Mortgage provided, valid, binding and legal obligations of the Railroad Company, and to make the Mortgage a valid and binding mortgage and deed of trust to secure the payment of the Bonds, have been performed, and the execution and delivery of the Mortgage have been duly authorized in all respects;

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that in order to secure the payment of the principal of, premium, if any, and interest on all the Bonds at any time issued and outstanding hereunder, according to their tenor and effect, and the performance and observance of the covenants and conditions contained in the Bonds and in the Mortgage, and in consideration of the premises and the acceptance by the Trustee of the trusts hereby created, and of the acceptance of the Bonds (and coupons, if any) by the holders thereof, and of the sum of One Dollar in hand paid by the Trustee to the Railroad Company upon the execution and delivery of

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the Mortgage, receipt whereof is hereby acknowledged, and pursuant to the order of the Court in the aforesaid reorganization proceedings dated November 26, 1945, the Railroad Company has granted, bargained, sold, conveyed, released, confirmed, mortgaged, pledged, assigned, transferred and set over, and by these presents does grant, bargain, sell, convey, release, confirm, mortgage, pledge, assign, transfer and set over, unto the Trustee, and to its successors in the trust, and its and their assigns forever, subject to the terms of the Mortgage, all and singular the following described property, rights, privileges and franchises of the Railroad Company:

FIRST: All of the Railroad Company's right, title and interest in and to all and singular the lines of railroad now owned or operated by the Railroad Company, including specifically but not exclusively the following:

Group A: Main lines, first main track:

Miles

ITEM (1). Beginning near Western Avenue in the City of Chicago, Illinois, and extending in a general northerly, northwesterly and westerly direction through the stations of Milwaukee, Portage and LaCrosse in the State of Wisconsin, River Junction, St. Paul and Minneapolis in the State of Minnesota, Mobridge in the State of South Dakota, Marmarth in the State of North Dakota, Miles City and Butte in the State of Montana, Plummer Junction in the State of Idaho, and Marengo, Beverly, Ellensburg and Cle Elum in the State of Washington, to a connection with the line of railway of Pacific Coast Railroad Company at the station of Maple Valley, Washington, and having a length of approximately 2,147.00

ITEM (2). Beginning near the south line of Kinzie Street in the City of Chicago, Illinois, and extending in a general northerly direction to Laurel Avenue in the Village of Wilmette, Illinois, and having a length of approximately.. 13.49

ITEM (3). Beginning at a connection with the line described in ITEM (1) of this *Group A* at Pacific Junction, Illinois, and extending in a general westerly direction through Savanna in the State of Illinois, and Green Island, Browns and Manilla in the State of Iowa, to Council Bluffs, Iowa, and having a length of approximately 479.56

ITEM (4). Beginning at a connection with the line described in ITEM (3) of this *Group A* in the Northeast Quarter of Section 26, Township 82 North, Range 38 West, in Manilla, Iowa, and extending in a general northwesterly direction through Sioux City in the State of Iowa, Elk Point and Napa in the State of South Dakota, and through a connection with the line described in ITEM (5) of this *Group A* at Mitchell, South Dakota, to a connection with the line described in ITEM (1) of this *Group A* at Aberdeen, South Dakota, and having a length of approximately .. 355.31

ITEM (5). Beginning at a connection with the line described in ITEM (1) of this *Group A* near Brookfield Avenue in Brookfield, Wisconsin, and extending in a general westerly direction via Milton Junction, Madison and Prairie du Chien in the State of Wisconsin, Marquette, Calmar, Mason City and Spencer in the State of Iowa, and Canton and Mitchell in the State of South Dakota, to Eighth Street in Rapid City, South Dakota, and having a length of approximately .. 840.85

ITEM (6). Beginning at a connection with the line described in ITEM (5) of this *Group A* near Marville Street in Calmar, Iowa, and extending in a general northwesterly direction through Conover in the State of Iowa and Austin, Ram-

sey, Farmington and Mendota in the State of Minnesota, to South Minneapolis, Minnesota, and having a length of approximately 171.44

ITEM (7). Beginning at a connection with the line described in ITEM (1) of this *Group A* at Bridge Switch, Minnesota, and extending in a general westerly direction through La Crescent, Isinours, Ramsey, Wells and Pipestone in the State of Minnesota, and Madison in the State of South Dakota, to Wessington Springs, South Dakota, and having a length of approximately .. 408.21

ITEM (8). Beginning at Sixteenth (Farnham) Street in the City of Des Moines, Iowa, and extending in a general northwesterly direction through a connection with the line described in ITEM (3) of this *Group A* at Herndon, Iowa, to a connection with a line described in ITEM (5) of this *Group A* at Fifth Avenue East in Spencer, Iowa, and having a length of approximately 156.40

ITEM (9). Beginning at a connection with the line described in ITEM (1) of this *Group A* at Techny, Illinois, and extending in a general southwesterly direction to a connection with the line described in item (2) of granting clause SEVENTH at said Techny, Illinois; also a line from a connection with the line described in item (2) of granting clause SEVENTH at Bensenville, Illinois, to a connection with the line described in ITEM (3) of this *Group A* at Bensenville, Illinois, the lines described in this ITEM (9) having a total length of approximately 3.71

ITEM (10). Beginning near Lake Street in the City of Racine, Wisconsin, and extending in a general westerly direction to a connection with the line described in ITEM (1) of this *Group A* near Racine Avenue in Sturtevant, Wisconsin, and having a length of approximately 7.61

ITEM (11). Beginning at a connection with the line described in ITEM (1) of this *Group A* in the

Southwest Quarter of Section 21, Township 3 North, Range 22 East, in Sturtevant, Wisconsin, and extending in a general southwesterly direction through Bardwell and Beloit in the State of Wisconsin and Rockton in the State of Illinois to a connection with the line described in ITEM (3) of this *Group A* in the Southeast Quarter of Section 27, Township 25 North, Range 6 East, in Kittredge, Illinois, and having a length of approximately 112.88

ITEM (12). Beginning at Steward Junction, Illinois, and extending in a general southerly direction to Seatonville Junction, Illinois, except for the line described in item (14) of granting clause SEVENTH at Mendota, Illinois, and except for the line described in item (17) of granting clause SEVENTH at Ladd, Illinois, the line described in this ITEM (12) having a length of approximately 36.61

ITEM (13). Beginning at Harper Avenue in Granville, Illinois, and extending in a general northeasterly direction to Church Avenue in Oglesby, Illinois, and having a length of approximately 10.51

ITEM (14). Beginning at a connection with the line described in ITEM (1) of this *Group A* at Grand Avenue Junction in the City of Milwaukee, Wisconsin, and extending in a general northwesterly direction through North Milwaukee and Horicon in the State of Wisconsin to a connection with the line described in ITEM (1) of this *Group A* at Superior Street in Portage, Wisconsin, and having a length of approximately 94.05

ITEM (15). Beginning at a connection with the line described in ITEM (14) of this *Group A* near Hampton Avenue in North Milwaukee, Wisconsin, and extending in a general northerly direction to a point in the Northwest Quarter of Section 32, Township 48 North, Range 29

West, in Champion, Michigan, and having a length of approximately 253.25

ITEM (16). Beginning near South 22nd Street in Muskego Yard in the City of Milwaukee, Wisconsin, and extending in a general westerly direction to a connection with the line described in ITEM (1) of this *Group A* near the Milwaukee and Watertown Plank Road in Elm Grove, Wisconsin, and having a length of approximately 7.45

ITEM (17). Beginning at a connection with the line described in ITEM (1) of this *Group A* near Monroe Street in New Lisbon, Wisconsin, and extending in a general northerly direction through Babcock, Wisconsin, to a point in the Southwest Quarter of Section 1, Township 39 North, Range 6 East, in Woodruff, Wisconsin, and having a length of approximately 166.46

ITEM (18). Beginning at a connection with the line described in ITEM (3) of this *Group A* in the Southeast Quarter of Section 9, Township 24 North, Range 5 East, in Ashdale, Illinois, and extending in a general southwesterly direction through Ebner, Illinois, to a point near 10th Street in East Moline, Illinois, and having a length of approximately 50.82

ITEM (19). Beginning near College Avenue in Davenport, Iowa, and extending in a general southwesterly direction to a point near Schmidt Road in West Davenport, Iowa, and having a length of approximately 1.69

ITEM (20). Beginning at a connection with the line described in ITEM (3) of this *Group A* at Green Island, Iowa, and extending in a general northerly direction through Dubuque and Marquette in the State of Iowa and La Crescent in the State of Minnesota, to a connection with the line described in ITEM (1) of this *Group A* at Bridge Switch, Minnesota, and having a length of approximately 148.27

ITEM (21). Beginning near Warren Street in Muscatine, Iowa, and extending in a general southwesterly direction through Ottumwa, Iowa, and Chillicothe and Excelsior Springs in the State of Missouri, to Birmingham, Missouri, and having a length of approximately..... 271.29

ITEM (22). Beginning at a connection with the line described in ITEM (21) of this *Group A* at Ottumwa Junction, Iowa, and extending in a general southeasterly direction to a point near Walnut Street in Ottumwa, Iowa, and having a length of approximately 2.58

ITEM (23). Beginning at a connection with the line described in ITEM (5) of this *Group A* at Milton Junction, Wisconsin, and extending in a general westerly direction through a connection with the line described in ITEM (3) of *Group B* near Wall Street in Janesville, Wisconsin, to a point near Nichols Street in Mineral Point, Wisconsin, and having a length of approximately 90.80

ITEM (24). Beginning at a connection with the line described in ITEM (1) of this *Group A* at Plummer Junction, Idaho, and extending in a general northwesterly direction to a point in the Northwest Quarter of Section 9, Township 23 North, Range 45 East, in Manito, Washington, and having a length of approximately 19.87

ITEM (25). Beginning at a point near the crossing of the tracks of the Northern Pacific Railway Company in the South Half of Section 16, Township 25 North, Range 43 East, in the City of Spokane, Washington, and extending in a general westerly direction to the west line of Center Street in said Spokane, and having a length of approximately 1.70

ITEM (26). Beginning at a connection with the line of Pacific Coast Railroad Company at the north line of Island No. 1 in Section 18, Township 22 North, Range 14 East, in the City of

Seattle, Washington, and extending in a general northwesterly direction to a point in Railroad Avenue between Atlantic Street and Connecticut Street in said Seattle, and having a length of approximately 1.47

ITEM (27). Beginning at Tacoma Junction, Washington, and extending in a general westerly direction to Pacific Avenue in the City of Tacoma, Washington, and having a length of approximately 2.10

Total miles of main track in *Group A*..... 5,855.38

Group B: Branch lines, first main track:

ITEM (1). Beginning at a connection with the line described in ITEM (2) of *Group A* at Chicago and Evanston Junction, Illinois, and extending in a general westerly direction to a connection with the line described in ITEM (1) of *Group A* at Pacific Junction, Illinois, and having a length of approximately 3.42

ITEM (2). Beginning at a connection with the line described in ITEM (5) of *Group A* at Fourth Avenue East in Spencer, Iowa, and extending in a general northerly direction to Parsons Street in Spirit Lake, Iowa, and having a length of approximately 20.60

ITEM (3). Beginning at a connection with the line described in ITEM (1) of *Group A* about 400 feet northerly of the Elgin, Joliet and Eastern Railway crossing in Rondout, Illinois, and extending in a general northwesterly direction through Bardwell, Wisconsin, to a connection with the line described in ITEM (23) of *Group A* near Wall Street in Janesville, Wisconsin, and having a length of approximately 66.50

ITEM (4). Beginning at a connection with the line described in ITEM (11) of *Group A* about

1600 feet northerly of Warren Street in Rockton, Illinois, and extending in a general southerly direction to a point about 1000 feet southeasterly of Cedar Street in Rockford, Illinois, and having a length of approximately 15.04

ITEM (5). Beginning about 100 feet easterly of Seventh Street in Rockford, Illinois, and extending in a general southerly direction to a point in the Southeast Quarter of Section 11, Township 43 North, Range 1 East, in Camp Grant, Illinois, and having a length of approximately 4.48

ITEM (6). Beginning at a connection with the line described in Item (17) of granting clause SEVENTH at a point about 500 feet east of Main Street in Ladd, Illinois, and extending in a general northerly direction to a point about 300 feet north of Cherry Avenue in Cherry, Illinois, and having a length af approximately 2.98

ITEM (7). Beginning at a connection with the line described in ITEM (14) of *Group A* at a point about 200 feet south of Hampton Avenue in North Milwaukee, Wisconsin, and extending in a general southeasterly direction to a point about 300 feet south of West Juneau Avenue (formerly Chestnut Street) in the City of Milwaukee, Wisconsin, (said line being known as the Chestnut Street Line in said Milwaukee) and having a length of approximately 6.27

ITEM (8). Beginning at a connection with the line described in ITEM (14) of *Group A* at a point in the Northwest Quarter of Section 8, Township 8 North, Range 21 East, Granville, Wisconsin, and extending in a general westerly direction to a point about 400 feet east of Hartford Road in North Lake, Wisconsin, and having a length of approximately 19.60

ITEM (9). Beginning at a connection with the line described in ITEM (14) of *Group A* at a

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point about 500 feet southeasterly of Pleasant Street in Iron Ridge, Wisconsin, and extending in a general northerly direction to about Scott Street in Fond du Lac, Wisconsin, and having a length of approximately 29.03

ITEM (10). Beginning at a connection with the line described in ITEM (14) of *Group A* at a point near Main Street in Horicon, Wisconsin, and extending in a general northwesterly direction to Huron Street in Berlin, Wisconsin, and having a length of approximately 42.30

ITEM (11). Beginning at a connection with the line described in ITEM (10) of this *Group B* at a point near Jefferson Street in Brandon, Wisconsin, and extending in a general westerly direction to a point in the Southwest Quarter of Section 5, Township 14 North, Range 13 East, in Markesan, Wisconsin, and having a length of approximately 11.49

ITEM (12). Beginning at a connection with the line described in ITEM (10) of this *Group B* at Doty Street in Ripon, Wisconsin, and extending in a general northeasterly direction to a point near Division Street in Oshkosh, Wisconsin, and having a length of approximately 18.78

ITEM (13). Beginning at a connection with the line described in ITEM (10) of this *Group B* at a point in the Southwest Quarter of Section 21, Township 17 North, Range 14 East, in Rush Lake, Wisconsin, and extending in a general northeasterly direction to a point near Division Street in Winneconne, Wisconsin, and having a length of approximately 14.82

ITEM (14). Beginning at a connection with the line described in ITEM (14) of *Group A* at Beaver Dam Junction, Wisconsin, and extending in a general southerly direction to a point about 300 feet north of Center Street in Beaver Dam, Wisconsin, and having a length of approximately... 2.11

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ITEM (15). Beginning at a connection with the line described in ITEM (14) of *Group A* at Fox Lake Junction, Wisconsin, and extending in a general northerly direction to a point near Trenton Street in Fox Lake, Wisconsin, and having a length of approximately 2.76

ITEM (16). Beginning at a connection with the line described in ITEM (15) of *Group A* at a point near Fifth Street in Channing, Michigan, and extending in a general northwesterly direction to a point about 250 feet northwesterly of Lake Street in Ontonagon, Michigan, and having a length of approximately 92.75

ITEM (17). Beginning at a connection with the line described in ITEM (15) of *Group A* near Milwaukee Street in Hilbert, Wisconsin, and extending in a general northerly direction to a connection with the line described in ITEM (13) of *Group C* at a point in the Northeast Quarter of Section 1, Township 19 North, Range 19 East, in said Hilbert; also beginning at a point about 650 feet east of De Pere Street in Menasha, Wisconsin, and extending in a general northwesterly direction to a point about 300 feet easterly of Oneida Street in Appleton, Wisconsin, the lines described in this ITEM (17) having a total length of approximately 5.94

ITEM (18). Beginning at a connection with the line described in ITEM (15) of *Group A* at a point near Jefferson Street in Green Bay, Wisconsin, and extending in a general easterly direction to a point near Crooks Street in said Green Bay, and having a length of approximately ..... .64

ITEM (19). Beginning at a connection with the line described in ITEM (14) of *Group C* at a point about 500 feet west of Cemetery Road in Oconto, Wisconsin, and extending in a general easterly direction to Bacon Avenue in said Oconto, and having a length of approximately 1.02

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ITEM (20). Beginning at a connection with the line described in ITEM (15) of *Group A* at a point in the Southwest Quarter of Section 22, Township 32 North, Range 20 East, in Crivitz, Wisconsin, and extending in a general southeasterly direction, through Marinette, Wisconsin, to Kirby Street in Menominee, Michigan, and having a length of approximately 22.56

ITEM (21). Beginning at a connection with the line described in ITEM (16) of this *Group B* at Kelso Junction, Michigan, and extending in a general westerly direction to Carnegie Avenue in Iron River, Michigan, and having a length of approximately 26.55

ITEM (22). Beginning at a connection with the line described in item (60) of granting clause SEVENTH at Crystal Avenue in Crystal Falls, Michigan, and extending in a general northerly direction to a point north of Morton Avenue in said Crystal Falls, and having a length of approximately ..... .52

ITEM (23). Beginning at a connection with the line described in ITEM (1) of *Group A* at Watertown Junction, Wisconsin, and extending in a general westerly direction to a connection with the line described in ITEM (5) of *Group A* near Main Street in Madison, Wisconsin, and having a length of approximately 36.52

ITEM (24). Beginning at a connection with the line described in ITEM (1) of *Group A* at Superior Street in Portage, Wisconsin, and extending in a general southeasterly direction to a connection with the line described in ITEM (23) of this *Group B* near Blount Street in Madison, Wisconsin, and having a length of approximately 34.28

ITEM (25). Beginning at a connection with the line described in ITEM (17) of *Group A* at a point in the Northeast Quarter of Section 14, Township 21 North, Range 3 East, in Babcock,

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Wisconsin, and extending in a general northwesterly and northeasterly direction through Dexterville, Wisconsin, to 4th Avenue in Pittsville, Wisconsin, and having a length of approximately 9.86

ITEM (26). Beginning at a connection with the line described in ITEM (17) of *Group* A at Nekoosa Junction, Wisconsin, and extending in a general southerly direction to a point in the Northeast Quarter of Section 10, Township 21 North, Range 5 East, in Nekoosa, Wisconsin, and having a length of approximately 2.91

ITEM (27). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point near Wolcott Street in Sparta, Wisconsin, and extending in a general southerly direction to Decker Street in Viroqua, Wisconsin, and having a length of approximately 34.70

ITEM (28). Beginning at a connection with the line described in ITEM (27) of this *Group B* at Westby Junction, Wisconsin, and extending in a general westerly direction to a point in the Northeast Quarter of Section 28, Township 14 North, Range 6 West, in Chaseburg, Wisconsin, and having a length of approximately 15.82

ITEM (29). Beginning at a connection with the line described in ITEM (1) of *Group A* near Maiden Street in Wabasha, Minnesota, and extending in a general northwesterly direction to a point in the Southwest Quarter of Section 9, Township 27 North, Range 9 West, in Magenta (Eau Claire), Wisconsin, and having a length of approximately 50.70

ITEM (30). Beginning at a connection with the line described in ITEM (29) of this *Group B* at Red Cedar Junction, Wisconsin, and extending in a general northerly direction to a point in the Northeast Quarter of Section 27, Township 28 North, Range 13 West, in Menomonie, Wisconsin, and having a length of approximately 15.13

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ITEM (31). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point about 160 feet east of Cedar Street in Red Wing, Minnesota, and extending in a general westerly direction to a connection with the line described in ITEM (12) of *Group C* at a point about 100 feet east of Cedar Street in said Red Wing, and having a length of approximately..... .01

ITEM (32). Beginning at a connection with the line described in ITEM (1) of *Group A* at St. Croix Junction, Minnesota, and extending in a general northerly direction to a point near Chestnut Street in Stillwater, Minnesota, and having a length of approximately 22.73

ITEM (33). Beginning at a connection with the line described in ITEM (1) of *Group A* near St. Clair Street in the City of St. Paul, Minnesota, and extending in a general southwesterly direction to a point near Cleveland Street in said St. Paul, with a spur to the Ford plant in said St. Paul, and having a length of approximately.... 4.45

ITEM (34). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northeast Quarter of Section 13, Township 115 North, Range 25 West, in Cologne, Minnesota, and extending in a general easterly direction to a connection with the line described in ITEM (69) of this *Group B* near Oak Street in Farmington, Minnesota, and having a length of approximately 37.64

ITEM (35). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the West Half of Section 14, Township 115 North, Range 28 West, in Glencoe, Minnesota, and extending in a general northwesterly direction to Second Avenue in Hutchinson, Minnesota, and having a length of approximately..... 13.42

ITEM (36). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point

48

in the Southwest Quarter of Section 15, Township 121 North, Range 46 West, in Ortonville, Minnesota, and extending in a general northerly direction to Eleventh Street in Fargo, North Dakota, and having a length of approximately 116.97

ITEM (37). Beginning at a connection with the line described in ITEM (1) of *Group A* at Milbank, South Dakota, and extending in a general northwesterly direction to Adams Street in Sisseton, South Dakota, and having a length of approximately 37.20

ITEM (38). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northwest Quarter of Section 2, Township 122 North, Range 59 West, in Andover, South Dakota, and extending in a general northerly direction to a point about 600 feet north of First Avenue in Brampton, North Dakota, and having a length of approximately..... 42.63

ITEM (39). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point about 1100 feet west of Main Street in Aberdeen, South Dakota, and extending in a general northerly direction to a point in the Southeast Quarter of Section 34, Township 134 North, Range 64 West, in Edgeley, North Dakota, and having a length of approximately..... 64.28

ITEM (40). Beginning at a connection with the line described in ITEM (1) of *Group A* at Orient Line Junction in Roscoe, South Dakota, and extending in a general southerly direction to a point about 300 feet south of Hand Street in Orient, South Dakota, and having a length of approximately 40.99

ITEM (41). Beginning at a connection with the line described in ITEM (1) of *Group A* at Booth Street in Roscoe, South Dakota, and extending

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in a general northwesterly direction to a connection with the line described in ITEM (8) of *Group C* near the east and west quarter section line in Section 17, Township 132 North, Range 76 West near Linton, North Dakota, and having a length of approximately 74.33

ITEM (42). Beginning at a connection with the line described in ITEM (1) of *Group A* at Java Junction, South Dakota, and extending in a general southwesterly direction to a point in the Northwest Quarter of Section 3, Township 123 North, Range 75 West, in Java, South Dakota, and having a length of approximately..... 1.04

ITEM (43). Beginning at a connection with the line described in ITEM (3) of *Group A* at a point about 1000 feet westerly of Narragansett Avenue, in Galewood, Illinois, and extending in a general northerly direction to Montrose Avenue in Dunning, Illinois, and having a length of approximately 2.97

ITEM (44). Beginning at a connection with the line described in ITEM (3) of *Group A* at a point about 500 feet westerly of Seventh Street in Kirkland, Illinois, and extending in a general southeasterly direction to a point near South Lake Street in Aurora, Illinois, and having a length of approximately..... 40.18

ITEM (45). Beginning at a point near East Washington Avenue, in Joliet, Illinois, and extending in a general southeasterly direction to a point near the Momence Road in Delmar, Illinois, and having a length of approximately.... 37.44

ITEM (46). Beginning at a connection with the line described in ITEM (3) of *Group A* at a point just east of the crossing of the Chicago, Burlington & Quincy Railroad Company's line in Savanna, Illinois, and extending in a general southwesterly direction to Ayres Junction, Illinois, and having a length of approximately..... 3.15

50

ITEM (47). Beginning at a connection with the line described in ITEM (3) of *Group A* at a point westerly of Spring Street in Sabula, Iowa, and extending in a general westerly direction through Elk River Junction, Iowa, to a connection with the line described in said ITEM (3) at a point in the Southwest Quarter of Section 35, Township 84 North, Range 4 East, near Browns, Iowa, and having a length of approximately..... 24.23

ITEM (48). Beginning at a connection with the line described in ITEM (47) of this *Group B* at Elk River Junction, Iowa, and extending in a general southeasterly direction to a point just north of the north line of Tenth Avenue in Clinton, Iowa, and having a length of approximately 10.70

ITEM (49). Beginning at a connection with the line described in ITEM (19) of *Group A* at a point just west of College Avenue in Davenport, Iowa, and extending in a general easterly direction to a connection with the line described in item (3) of granting clause SEVENTH at College Avenue in said Davenport, and having a length of approximately ..... .02

ITEM (50). Beginning at a connection with the line described in ITEM (19) of *Group A* at a point just west of College Avenue in Davenport, Iowa, and extending in a general northwesterly direction to a point west of Vine Street in Dixon, Iowa, and having a length of approximately.... 22.02

ITEM (51). Beginning at a connection with the line described in ITEM (20) of *Group A* at Waukon Junction, Iowa, and extending in a general northwesterly direction to a point near School Street in Waukon, Iowa, and having a length of approximately 23.00

ITEM (52). Beginning at a connection with the line described in ITEM (20) of *Group A* at a point in the Southwest Quarter of Section 25,

51

Township 102 North, Range 4 West, in Reno, Minnesota, and extending in a general northwesterly direction through Preston, Minnesota, to a connection with the line described in ITEM (7) of *Group A* at a point in the Northwest Quarter of Section 21, Township 103 North, Range 10 West, in Isinours, Minnesota, and having a length of approximately 62.24

ITEM (53). Beginning at a point about 300 feet northwesterly of Otto Street, in Maquoketa, Iowa, and extending in a general southerly direction through a connection with the line described in ITEM (3) of *Group A* at Delmar Junction, Iowa, to Third Street in DeWitt, Iowa, and having a length of approximately..... 20.40

ITEM (54). Beginning at a connection with the line described in ITEM (3) of *Group A* at Oxford Junction, Iowa, and extending in a general northwesterly direction through Monticello, Iowa, to a connection with the line described in ITEM (5) of *Group A* at Jackson Junction, Iowa, and having a length of approximately..... 105.02

ITEM (55). Beginning at a connection with the line described in ITEM (3) of *Group A* at a point in the Northeast Quarter of Section 5, Township 83 North, Range 5 West, in Paralta, Iowa, and extending in a general northwesterly direction through a connection with the line described in ITEM (54) of this *Group B* at Monticello, Iowa, and through Junction Switch, Iowa, to a point in the Southeast Quarter of Section 30, Township 88 North, Range 2 West, in Worthington, Iowa, and having a length of approximately.... 36.67

ITEM (56). Beginning at a connection with the line described in ITEM (3) of *Group A* at a point in the Northwest Quarter of Section 1, Township 83 North, Range 7 West, at Indian Creek, Iowa, near Marion, Iowa, and extending in a general southwesterly direction through Cedar

52

Rapids, Iowa, to a connection with the line described in ITEM (21) of *Group A* at a point in the Southwest Quarter of Section 1, Township 72 North, Range 14 West, in Rutledge, Iowa, and having a length of approximately..... 91.29

ITEM (57). Beginning at a connection with the line described in ITEM (3) of *Group A* at a point in the Southeast Quarter of Section 36, Township 82 North, Range 26 West, in Madrid, Iowa, and extending in a general northerly direction to a point near Division Street in Boone, Iowa, and having a length of approximately..... 15.09

ITEM (58). Beginning at a connection with the line described in ITEM (3) of this *Group B* near Pleasant Street in Janesville, Wisconsin, and extending in a general southerly direction to a connection with the line described in ITEM (11) of *Group A* at Beloit Junction, Wisconsin, and having a length of approximately..... 14.01

ITEM (59). Beginning at a connection with the line described in ITEM (23) of *Group A* near Center Street in Brodhead, Wisconsin, and extending in a general northwesterly direction to a point in the Southwest Quarter of Section 14, Township 4 North, Range 7 East, in New Glarus, Wisconsin, and having a length of approximately 22.78

ITEM (60). Beginning at a connection with the line described in ITEM (23) of *Group A* at a point in the Northeast Quarter of Section 9, Township 1 North, Range 4 East, in Gratiot, Wisconsin, and extending in a general westerly direction to Judgment Street in Shullsburg, Wisconsin, and having a length of approximately..... 11.71

ITEM (61). Beginning at a connection with the line described in ITEM (23) of *Group A* near Willow Street in Calamine, Wisconsin, and extending in a general westerly direction to a point near Pine Street in Platteville, Wisconsin, and having a length of approximately..... 17.17

53

ITEM (62). Beginning at a connection with the line described in ITEM (5) of *Group A* near Ogden Street in Mazomanie, Wisconsin, and extending in a general northeasterly direction to a point near Lincoln Avenue in Sauk City, Wisconsin, and having a length of approximately... 9.45

ITEM (63). Beginning at a connection with the line described in ITEM (5) of *Group A* at a point near Elm Street in Lone Rock, Wisconsin, and extending in a general northwesterly direction to Sixth Street in Richland Center, Wisconsin, and having a length of approximately..... 16.25

ITEM (64). Beginning at a connection with the line described in ITEM (5) of *Group A* at a point in the Southwest Quarter of Section 22, Township 95 North, Range 4 West, in Beulah, Iowa, and extending in a general southerly direction to a point near Chestnut Street in Elkader, Iowa, and having a length of approximately.... 19.20

ITEM (65). Beginning near Jersey Avenue in Mason City, Iowa, and extending in a general northerly direction to a connection with the line described in ITEM (6) of *Group A* at Ellis Avenue in Austin, Minnesota, and having a length of approximately 39.49

ITEM (66). Beginning at a connection with the line described in ITEM (5) of *Group A* at Marion Junction, South Dakota, and extending in a general southwesterly direction to a point in the Southeast Quarter of Section 9, Township 97 North, Range 57 West, in Menno, South Dakota, and having a length of approximately..... 21.76

ITEM (67). Beginning at a connection with the line described in ITEM (6) of *Group A* at Decorah Street in Conover, Iowa, and extending in a general northeasterly direction to Sumner Street in Decorah, Iowa, and having a length of approximately 9.98

54

ITEM (68). Beginning near First Street North in Faribault, Minnesota, and extending in a general easterly direction to a point in the Northwest Quarter of Section 6, Township 109 North, Range 13 West, in Zumbro Falls, Minnesota, and having a length of approximately..... 53.38

ITEM (69). Beginning at a connection with the line described in ITEM (6) of *Group A* at a point near Elm Street in Farmington, Minnesota, and extending in a general southwesterly direction to a point in the Northwest Quarter of Section 32, Township 109 North, Range 26 West, in Benning (Mankato), Minnesota, and having a length of approximately 56.23

ITEM (70). Beginning at a connection with the line described in ITEM (7) of *Group A* at Hollandale Junction, Minnesota, and extending in a general northerly direction to a point in the Southeast Quarter of Section 35, Township 104 North, Range 20 West, in Hollandale, Minnesota, and having a length of approximately..... 6.94

ITEM (71). Beginning at a connection with the line described in ITEM (7) of *Group A* at St. Clair Junction near Albert Lea, Minnesota, and extending in a general northwesterly direction to a point in the Southwest Quarter of Section 8, Township 107 North, Range 25 West, in St. Clair, Minnesota, and having a length of approximately 39.22

ITEM (72). Beginning at a connection with the line described in ITEM (7) of *Group A* near Park Street in Wells, Minnesota, and extending in a general Northwesterly direction to "D" Street in Mankato, Minnesota, and having a length of approximately 37.14

ITEM (73). Beginning at a connection with the line described in ITEM (7) of *Group A* at Josephine Avenue in Madison, South Dakota, and extending in a general northwesterly direction to a connection with the line described in ITEM (1) of

55

Group A at a point in the Southwest Quarter of Section 25, Township 122 North, Range 58 West, in Bristol, South Dakota, and having a length of approximately 102.82

ITEM (74). Beginning at a connection with the line described in ITEM (4) of *Group A* at a point in the Southeast Quarter of Section 19, Township 91 North, Range 49 West, in Elk Point, South Dakota, and extending in a northerly direction through Canton and Sioux Falls, in the State of South Dakota, to a connection with the line described in ITEM (7) of *Group A* at Sioux Falls Junction, South Dakota, and having a length of approximately 102.57

ITEM (75). Beginning at a connection with the line described in ITEM (4) of *Group A* at a point in the Southwest Quarter of Section 22, Township 94 North, Range 56 West, in Napa, South Dakota, and extending in a general northwesterly direction through Tyndall, South Dakota, to a point in the Northeast Quarter of Section 14, Township 99 North, Range 68 West, in Platte, South Dakota, and having a length of approximately 82.03

ITEM (76). Beginning at a connection with the line described in ITEM (75) of this *Group B* near Lincoln Street in Tyndall, South Dakota, and extending in a general southwesterly direction to a point in the Southeast Quarter of Section 27, Township 93 North, Range 60 West, in Springfield, South Dakota, and having a length of approximately 12.29

ITEM (77). Beginning at a connection with the line described in ITEM (4) of *Group A* near Wilder Street in Tripp, South Dakota, and extending in a general northwesterly direction to a point about 1300 feet north of Main Street in Stickney, South Dakota, and having a length of approximately 41.12

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ITEM (78). Beginning at a connection with the line described in ITEM (8) of *Group A* at a point in the Southeast Quarter of Section 34, Township 79 North, Range 25 West, in Clive, Iowa, and extending in a general northwesterly direction to a connection with the line described in ITEM (3) of *Group A* at Woodward Junction, Iowa, and having a length of approximately..... 22.07

ITEM (79). Beginning at a connection with the line described in ITEM (8) of *Group A* near Main Street in Rockwell City, Iowa, and extending in a general northwesterly direction through Storm Lake, Iowa, to a point in the Northwest Quarter of Section 36, Township 93 North, Range 37 West, in Rembrandt, Iowa, and having a length of approximately 51.91

ITEM (80). Beginning at a connection with the line described in ITEM (1) of *Group A* at Moreau Junction, South Dakota, and extending in a general southwesterly direction to a point in the Northwest Quarter of Section 32, Township 17 North, Range 22 East, in Isabel, South Dakota, and having a length of approximately..... 59.39

ITEM (81). Beginning at a connection with the line described in ITEM (80) of this *Group B* at a point in the Southwest Quarter of Section 31, Township 18 North, Range 28 East, in Trail City, South Dakota, and extending in a general southwesterly direction to a point in the Southeast Quarter of Section 4, Township 12 North, Range 17 East, in Faith, South Dakota, and having a length of approximately 106.49

ITEM (82). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northeast Quarter of Section 6, Township 22 North, Range 27 East, in McLaughlin, South Dakota, and extending in a general northwesterly direction to a point in the Northwest Quarter of Section 4, Township 135 North, Range 97

57

West, in New England, North Dakota, and having a length of approximately 133.96

ITEM (83). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northeast Quarter of Section 27, Township 8 North, Range 15 East, in Harlowton, Montana, and extending in a general northeasterly and northwesterly direction through Lewistown, Montana, to a point in the South Half of Section 18, Township 26 North, Range 4 West, in Agawam, Montana, and having a length of approximately 235.81

ITEM (84). Beginning at a connection with the line described in ITEM (83) of this *Group B* at Lewistown Junction, Montana, and extending in a general easterly direction to a point in the Northeast Quarter of Section 6, Township 14 North, Range 27 East, in Winnett, Montana, and having a length of approximately..... 58.96

ITEM (85). Beginning at a connection with the line described in ITEM (83) of this *Group B* at Roy-Winifred Junction, Montana, near Lewistown, Montana, and extending in a general northeasterly direction to a point in the Southwest Quarter of Section 8, Township 18 North, Range 22 East, in Roy, Montana, and having a length of approximately 42.49

ITEM (86). Beginning at a connection with the line described in ITEM (85) of this *Group* B at Roy Junction, Montana, and extending in a general northerly direction to a point in the Southeast Quarter of Section 23, Township 21 North Range 18 East, in Winifred, Montana, and having a length of approximately..... 23.09

ITEM (87). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Southeast Quarter of Section 14, Township 6 North, Range 7 East, in Ringling Mon-

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tana, and extending in a general northerly direction to a connection with the White Sulphur Springs and Yellowstone Park Railway Company's line in the Northwest Quarter of Section 6, Township 6 North, Range 8 East, near Dorsey, Montana, and having a length of approximately 3.62

ITEM (88). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northwest Quarter of Section 25, Township 2 North, Range 1 East, in Three Forks, Montana, and extending in a general southeasterly and northeasterly direction through Bozeman, Montana, to a point near Main Street in Menard, Montana, and having a length of approximately 62.73

ITEM (89). Begnining at a connection with the line described in ITEM (88) of this *Group B* at Belgrade Junction, Montana, and extending in a general northeasterly direction to Broadway Street in Belgrade, Montana, and having a length of approximately..... 5.22

ITEM (90). Beginning at a connection with the line described in ITEM (88) of this *Group B* at a point in the Southwest Quarter of Section 13, Township 2 South, Range 4 East, in Bozeman Hot Springs, Montana, and extending in a general southerly direction to a point in the Northwest Quarter of Section 11, Township 3 South, Range 4 East, in Gallatin Gateway, Montana, and having a length of approximately..... 4.99

ITEM (91). Beginning at a connection with the line described in ITEM (1) of *Group A* at Bonner Junction, Montana, and extending in a general northeasterly direction to a point in the Northwest Quarter of Section 29, Township 15 North, Range 13 West, in Cottonwood, Montana, and having a length of approximately 40.04

ITEM (92). Beginning at a connection with the line described in ITEM (1) of *Group A* near First Avenue in St. Maries, Idaho, and extending in a general southeasterly direction to a point in the

59

Northeast Quarter of Section 24, Township 41 North, Range 1 West, in Purdue, Idaho; also beginning at a point in the Northeast Quarter of Section 36, Township 41 North, Range 1 West, in Bovill, Idaho, and extending in a general southeasterly direction to a point in the Northwest Quarter of Section 26, Township 40 North Range 2 East, in Elk River, Idaho, the lines described in this ITEM (92) having a total length of approximately 69.98

ITEM (93). Beginning at a point in the Northeast Quarter of Section 19, Township 25 North, Range 4 East, in Dishman, Washington, and extending in a general northeasterly direction through McGuires, Idaho, to a point in the Northeast Quarter of Section 4, Township 50 North, Range 5 West; also beginning at a point in the Southeast Quarter of Section 6, Township 50 North, Range 4 West, and extending in a general northeasterly direction to a point in the Northeast Quarter of Section 9, Township 50 North, Range 4 West, near Atlas, Idaho; also beginning at a point near the south line of Section 11, Township 50 North, Range 4 West, near Gibbs, Idaho, and extending in a general northeasterly direction to a point near Third Street in Coeur d'Alene, Idaho, the lines described in this ITEM (93) having a total length of approximately 19.44

ITEM (94). Beginning at a connection with the line described in ITEM (93) of this *Group B* at a point in the Northwest Quarter of Section 4, Township 50 North, Range 5 West, in McGuires, Idaho, and extending in a general northwesterly and northerly direction to a point near Fifth Avenue in Metaline Falls, Washington, and having a length of approximately 105.24

ITEM (95). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point near Ash Street in Warden, Washington, and extending in a general northeasterly direction

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to a point near Irby Street in Marcellus, Washington, and having a length of approximately... 47.17

ITEM (96). Beginning at a connection with the line described in ITEM (95) of this *Group B* at a point in the Northwest Quarter of Section 9, Township 18 North, Range 30 East, in Tiffis, Washington, and extending in a general northwesterly direction to a point in the Southwest Quarter of Section 14, Township 19 North, Range 28 East, in Moses Lake, Washington, and having a length of approximately 15.54

ITEM (97). Beginning at a connection with the line described in ITEM (1) of *Group A* at Beverly Junction, Washington, and extending in a general southeasterly direction to a point in the South Half of Section 10, Township 13 North, Range 24 East, near Vernita, Washington, and having a length of approximately 20.79

ITEM (98). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northwest Quarter of Section 3, Township 22 North, Range 8 East, in Cedar Falls, Washington, and extending in a general northwesterly direction to a point in the Northwest Qarter of Section 6, Township 27 North, Range 7 East, in Monroe, Washington; also beginning at a point in the South Half of Section 32, Township 29 North, Range 5 East, in Lowell, Washington, and extending in a general northwesterly direction to Pacific Avenue in Everett, Washington, the lines described in this ITEM (98) having a total length of approximately 41.66

ITEM (99). Beginning at a connection with the line described in ITEM (1) of *Group A* at Bagley Junction, Washington, and extending in a general southwesterly direction to a point in the Northeast Quarter of Section 26, Township 22 North, Range 7 East, in Selleck, Washington; also beginning at Kanaskat Junction, Washington, and extending in a general southwesterly direction to a point in the Southeast Quarter of

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Section 16, Township 21 North, Range 7 East, in Bayne, Washington; also main track in the South Half of Section 24, Township 20 North, Range 6 East, in Enumclaw, Washington, the lines described in this ITEM (99) having a total length of approximately 5.72

ITEM (100). Beginning at a connection with the line described in ITEM (27) of *Group A* at a point near East "E" Street in the City of Tacoma, Washington, and extending in a general southerly direction to a point in the Southwest Quarter of Section 1, Township 12 North, Range 4 East, in Morton, Washington, and having a length of approximately..... 65.51

ITEM (101). Beginning at a connection with the line described in ITEM (100) of this *Group B* at a point in the Northeast Quarter of Section 36, Township 19 North, Range 3 East, in Frederickson, Washington, and extending in a general southwesterly direction to Helsing Junction, Washington, and having a length of approximately 48.50

ITEM (102). Beginning at a connection with the line described in ITEM (101) of this *Group B* at a point in the Southwest Quarter of Section 4, Township 16 North, Range 2 West, in Maytown, Washington, and extending in a general southerly direction to Chehalis Junction, Washington; also beginning at a point in the Southwest Quarter of Section 1, Township 13 North, Range 5 West at Dryad Junction, Washington, and extending in a general westerly direction to a point in the Northeast Quarter of Section 24, Township 14 North, Range 9 West, in Raymond, Washington, the lines described in this ITEM (102) having a total length of approximately 48.34

ITEM (103). Beginning at a connection with the line described in ITEM (100) of this *Group B* at Park Junction, Washington, and extending in a general easterly direction to a point in the

62

Northeast Quarter of Section 27, Township 15 North, Range 6 East, in Ashford, Washington, and having a length of approximately 5.71

ITEM (104). Beginning at a point near Beech Street in Bellingham, Washington, and extending in a general northwesterly direction to a point in the Northeast Quarter of Section 7, Township 39 North, Range 7 East, in Glacier, Washington, and having a length of approximately 46.73

ITEM (105). Beginning at a connection with the line described in ITEM (104) of this *Group B* at a point in the Southwest Quarter of Section 19, Township 40 North, Range 4 East, in Hampton, Washington, and extending in a general westerly direction to a point near Deer Street in Lynden, Washington, and having a length of approximately 5.32

ITEM (106). Beginning at Discovery Junction, Washington, and extending in a general westerly direction to a point in the Northeast Quarter of Section 36, Township 31 North, Range 9 West, in Disque, Washington, and having a length of approximately 56.18

Total miles of main track in *Group B*..... 3,728.38

Group C: The undivided interest of the Railroad Company in each of the following lines of railroad:

ITEM (1). An undivided one-quarter interest in a line extending from a point in the north line of Lake Street, between Canal Street and the Chicago River, to a point in Canal Street, between Carroll Avenue and Fulton Street, all in the City of Chicago, Illinois, and having a length of approximately ..... .12

ITEM (2). An undivided one-half interest in a line extending from a connection with the line described in ITEM (1) of this *Group C* at a point in Canal Street, between Carroll Avenue and Fulton Street, to a connection with the line described in ITEM (1) of *Group A* at Western Ave-

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nue, all in the City of Chicago, Illinois, and having a length of approximately 2.42

ITEM (3). An undivided one-quarter interest in a line extending from a connection with the line described in ITEM (1) of this *Group C* at a point north of Fulton Street, between Canal Street and the Chicago River in the City of Chicago, Illinois, to a point in Canal Street near Carroll Avenue, in said Chicago, and having a length of approximately ..... .06

ITEM (4). An undivided one-sixth interest in a line extending from a connection with the line described in ITEM (3) of this *Group C* at a point in Canal Street near Carroll Avenue in the City of Chicago, Illinois, to a connection with the line described in ITEM (2) of *Group A* near the south line of Kinzie Street in said Chicago, and having a length of approximately ..... .07

ITEM (5). An undivided one-half interest in a line extending from a connection with the line described in ITEM (6) of *Group A* at "N" Street in Mendota, Minnesota, by way of Chestnut Street in the City of St. Paul, Minnesota, to Sibley Street in said St. Paul, and having a length of approximately 5.03

ITEM (6). An undivided one-half interest in a line extending from a connection with the line described in ITEM (72) of *Group B* at "D" Street in Mankato, Minnesota, to Maple Street in said Mankato, and having a length of approximately 1.10

ITEM (7). An undivided one-third interest in a line extending from a connection with the line described in ITEM (4) of *Group A* east of Pearl Street in Sioux City, Iowa, to a connection with the line described in said ITEM (4) west of said Pearl Street, and having a length of approximately ..... .05

ITEM (8). An undivided one-half interest in a line extending from a connection with the line described in ITEM (41) of *Group B* at a point

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near the east and west quarter section line of Section 17, Township 132 North, Range 76 West, near Linton, North Dakota, to a connection with the railway of the Northern Pacific Railway Company at Walnut Avenue in Linton, North Dakota, and having a length of approximately 1.10

ITEM (9). An undivided one-half interest in a line extending from a connection with the line described in ITEM (5) of *Group B* at a point in the Southeast Quarter of Section 11, Township 43 North, Range 1 East, to a connection with the line described in item (6) of granting clause SEVENTH at a point in the Northeast Quarter of Section 14, Township 43 North, Range 1 East, all at Camp Grant, Illinois, and having a length of approximately ..... .19

ITEM (10). An undivided one-half interest in a line extending from a connection with the line described in ITEM (9) of *Group B* at Forest Street, to a connection with the line described in said ITEM (9) at Merrill Street between Main Street and the east branch of the Fond du Lac River, all in Fond du Lac, Wisconsin, and having a length of approximately ..... .27

ITEM (11). An undivided one-half interest in a line extending from a connection with the line described in ITEM (12) of *Group B* at a point about 250 feet southerly of the south end of Bridge D-180 across the Fox River, and extending northerly about 500 feet north of the north end of said bridge to a connection with the line described in said ITEM (12), all in Oshkosh, Wisconsin, and having a length of approximately .. .27

ITEM (12). An undivided one-half interest in a line extending from a connection with the line described in ITEM (31) of *Group B* near Cedar Street in Red Wing, Minnesota, to a point near St. Clair Street in Cannon Falls, Minnesota, and having a length of approximately 21.60

ITEM (13). An undivided one-half interest in a line extending from a connection with the line

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described in ITEM (17) of *Group B* at a point in the Northeast Quarter of Section 1, Township 19 North, Range 19 East, in Hilbert, Wisconsin, through a connection with the line described in said ITEM (17) at a point about 650 feet east of DePere Street in Menasha, Wisconsin; also from a point near Milwaukee Street in said Menasha to a point about 200 feet south of North Water Street in Neenah, Wisconsin, the lines described in this ITEM (13) having a total length of approximately 15.80

ITEM (14). An undivided one-half interest in a line extending from a connection with the line described in item (22) of granting clause SEVENTH at a point about 1800 feet west of Cemetery Road in Oconto, Wisconsin, to a connection with the line described in ITEM (19) of *Group B* at a point about 500 feet west of said Cemetery Road, and having a length of approximately..... .24

ITEM (15). An undivided one-half interest in a line extending from a connection with the line described in ITEM (21) of *Group B* at Crystal Falls Junction, Michigan, to the north end of the bridge across Brier Hill Creek at said Crystal Falls Junction, and having a length of approximately ..... .25

ITEM (16). An undivided one-third interest in a line extending from a connection with the line described in ITEM (48) of *Group B* at a point just north of the north line of Tenth Avenue in Clinton, Iowa, to a point south of the south line of said Tenth Avenue, and having a length of approximately ..... .04

ITEM (17). An undivided one-half interest in a line extending in a general southwesterly direction from a connection with the line described in Item (21) of *Group A* at Birmingham, Missouri, to Air Line Junction in the City of Kansas City, Missouri, and having a length of approximately 4.39

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ITEM (18). An undivided one-half interest in a line extending from Air Line Junction in the City of Kansas City, Missouri, to Troost Avenue in said Kansas City; also an undivided one-half interest in seven one-hundredths (.07) of a mile of track at Santa Fe Street in said Kansas City, the lines described in this ITEM (18) having a total length of approximately..... 4.48

ITEM (19). An undivided one-half interest in a line extending from a connection with the line described in ITEM (83) of *Group B* at a point about 1000 feet southerly of Main Street in Lewistown, Montana, to a connection with the line described in said ITEM (83) at Spring Creek Junction, Montana; also a line extending from a connection with the line described in said ITEM (83) at Emerson Junction, Montana, to a connection with the line described in said ITEM (83) at Dracut Junction, Montana; also a line extending from a connection with the line described in said ITEM (83) at Eastham, Montana, to a connection with the line described in said ITEM (83) at a point in the Southwest Quarter of Section 30, Township 24 North, Range 4 West, in Choteau, Montana, the lines described in this ITEM (19) having a total length of approximately 29.99

ITEM (20). An undivided one-half interest in a line extending from a connection with the line described in ITEM (25) of *Group A* at the west line of Center Street in the City of Spokane, Washington, to the east line of Monroe Street in said Spokane, and having a length of approximately ..... .56

ITEM (21). An undivided one-half interest in a line extending from a connection with the railway of the Pacific Coast Railroad Company at Black River Junction, Washington, to a connection with the line described in ITEM (27) of *Group A* near the east bank of the Puyallup River, at Tacoma Junction, Washington, and having a length of approximately 26.32

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ITEM (22). An undivided one-half interest in a line extending from a connection with the line described in ITEM (99) of *Group B* at Selleck, Washington, to a connection with the line described in item (54) of granting clause SEVENTH at said Selleck; also a line extending from a connection with the line described in item (48) of granting clause SEVENTH at Kanaskat Junction, Washington, to a connection with the line described in said ITEM (99) of *Group B* at said Kanaskat Junction, said lines described in this ITEM (22) having a total length of approximately .45

ITEM (23). An undivided one-half interest in a line extending from a connection with the line described in ITEM (101) of *Group B* at Helsing Junction, Washington, to 22nd Street in Hoquiam, Washington, and having a length of approximately 44.50

ITEM (24). An undivided one-half interest in a line extending from a connection with the line described in ITEM (23) of this *Group C* at South Montesano, Washington, to a point about 1000 feet southwesterly of Main Street in Montesano, Washington, and having a length of approximately 1.60

ITEM (25). An undivided one-eighth interest in a line extending from a connection with the line described in item (45) of granting clause SEVENTH at Longview Junction, Washington, to a connection with the line described in ITEM (26) of this *Group C* at said Longview Junction, and having a length of approximately ..... .02

ITEM (26). An undivided one-quarter interest in a line extending from a connection with the line described in ITEM (25) of this *Group C* at Longview Junction, Washington, to the freight house at Hudson Street in Longview, Washington, and having a length of approximately 3.53

ITEM (27). An undivided one-half interest in a line extending in a general westerly direction from a connection with the line described in

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ITEM (17) of this *Group C* at Freight Line Junction in the City of Kansas City, Missouri, to West Wye in said Kansas City, and having a length of approximately..... .35

Total miles of main track in *Group C*..... 164.80

Group D: The leasehold interest of the Railroad Company in each of the following lines of railroad held under lease from Chicago, Terre Haute and Southeastern Railway Company, dated July 1, 1921:

ITEM (1). Beginning at a point in the Northwest Quarter of Section 33, Township 35 North, Range 14 East, in Chicago Heights, Illinois, and extending in a general southerly and easterly direction, through Delmar, Webster and Quaker in the State of Illinois, and Belt Junction, Elnora, Bedford and Seymour in the State of Indiana, to a point near Sycamore Street in Westport, Indiana, and having a length of approximately 294.39

ITEM (2). Beginning at a connection with the line described in ITEM (1) of this *Group D* at Belt Junction, Indiana, and extending in a general northerly direction to a point near Hulman Street in the City of Terre Haute, Indiana, and having a length of approximately 2.71

ITEM (3). Beginning at a connection with the line described in ITEM (1) of this *Group D* in the Southwest Quarter of Section 9, Township 8 North, Range 7 East, in Latta, Indiana, and extending in a general southwesterly direction to a point near Washington Street in Sullivan, Indiana, and having a length of approximately.. 13.73

ITEM (4). Beginning at a connection with the line described in item (7) of granting clause SEVENTH at Blue Island, Illinois, and extending in a general southeasterly direction to a connection with the line of The Baltimore & Ohio Chicago Terminal Railroad Company at St. Paul

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Junction, Illinois, and having a length of approximately ..... .91

Total miles of main track *Group D*..... 311.74

Group E: The leasehold interest of the Railroad Company in the following line of railroad held under agreement dated September 3, 1883, as supplemented by agreement dated August 27, 1902, letter agreement dated October 30, 1919, and agreement dated August 1, 1936, with the Chicago, Burlington & Quincy Railroad Company and its predecessors in interest:

ITEM (1). Beginning at a connection with the line described in ITEM (3) of *Group A* at a point approximately 100 feet east of the east line of 14th Street in Council Bluffs, Iowa, and extending in a general westerly direction to a connection with the line described in said ITEM (3) at a point approximately 20 feet west of the west line of 15th Street, in said Council Bluffs, and having a length of approximately ..... .10

Group F: Additional main tracks:

All tracks owned by the Railroad Company or in which it has an interest and commonly designated as second main track, third main track, etc., and used as a part of or in connection with any of the said lines of railroad above described in *Groups A, B, C, D and E*, and having an aggregate length of approximately:

	Miles
Wholly owned	892.34
Jointly owned	15.11
Held under lease	45.43
Total	952.88

Group G: Yard tracks and sidings:

All yard, side, industrial, switch, connecting, terminal, passing and shop tracks and turnouts

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owned by the Railroad Company or in which it has an interest and used or provided for use in connection with any of the lines of railroad and tracks above described in *Groups A, B, C, D, E and F*, and having an aggregate length of approximately:

	Miles
Wholly owned	3,081.24
Jointly owned	297.79
Held under lease	193.75
Total	3,572.78

SECOND. All of the Railroad Company's right, title and interest in and to all tracts and parcels of land, easements, rights of way and other real property and interests in real property of whatever kind or description now owned or hereafter acquired by the Railroad Company.

THIRD. Any and all tracks, easements, rights of way, lands, fixtures, structures, improvements, tenements and hereditaments of whatever kind or description and wherever situated, now owned or hereafter acquired by the Railroad Company, including in the property comprised in the description of this granting clause any and all main, branch, cut-off, spur, industrial, switch, connecting, storage, yard or terminal tracks, rights of way, easements, estates, superstructures, roadbeds, bridges, trestles, culverts, viaducts, buildings, depots, stations, stock yards, warehouses, elevators, car houses, engine houses, freight houses, machine shops and other shops, turntables, fuel stations, water stations, signals, interlocking plants, telegraph and telephone lines, fences, docks, structures and fixtures, and all other property now owned or hereafter acquired by the Railroad Company.

FOURTH. All right, title and interest of every name and nature, legal or equitable, of the Railroad Company in and to all mechanical equipment, machinery, tools, implements, furniture, supplies, materials, and other chattels now owned

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by or at any time hereafter acquired by the Railroad Company.

FIFTH. All estate, right, title and interest of every kind and nature, legal or equitable, of the Railroad Company in and to Equipment (as defined in Article I) now owned by or at any time hereafter acquired by the Railroad Company, and any and all additions, betterments and improvements thereto, including all right, title and interest now or hereafter vested in the Railroad Company in and to any and all such property leased to or possessed by the Railroad Company under any Equipment Obligation.

SIXTH. The following described securities of other corporations:

Group A: Subject to the Railroad Company's First Mortgage, the following shares of common capital stock of other corporations now owned by the Railroad Company:

Name of Company	Number of Shares	Total Par Value
Chicago Union Station Company	7,000	$ 700,000
Chicago, Milwaukee and Gary Railway Company	9,993	999,300
Chicago, Terre Haute and Southeastern Railway Company	40,465.95	4,046,595
Cowlitz, Chehalis and Cascade Railway	697	69,700
Davenport, Rock Island and Northwestern Railway Company	14,997	1,499,700
Des Moines Union Railway Company	996	99,600
Indiana Harbor Belt Railroad Company	15,198	1,519,800
Milwaukee Land Company	4,995	499,500
Minneapolis Eastern Railway Company	620	62,000
The Minnesota Transfer Railway Company	913	91,300

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Republic Coal Company	997	99,700
Excelsior Coal Company	245	24,500
The Saint Paul Union Depot Company	1,036	103,600
The Milwaukee Motor Transportation Company	495	49,500

Group B: Subject to the Railroad Company's First Mortgage, the following evidences of indebtedness of other corporations now owned by the Railroad Company:

Description	Principal Amount
Chicago, Terre Haute and Southeastern Railway Company First and Refunding Mortgage Fifty Year Five Per Cent Gold Bonds	$1,515,000.00
Minneapolis Eastern Railway Company Refunding Mortgage 4½% Bonds	49,000.00
Chicago, Terre Haute and Southeastern Railway Company 5% Notes	640,392.30
Kansas City Terminal Railway Company 6% Notes	57,693.96
Milwaukee Land Company 6% Note	2,652,000.00

Group C: The shares of common capital stock of other corporations now owned by the Railroad Company but deposited under and subject to the following agreements:

1,000 shares, of the par value of $100 each, of Des Moines Union Railway Company, deposited with Iowa-Des Moines National Bank and Trust Company under Stock Trust Agreement dated April 2, 1930;

1,828½ shares, of the par value of $100 each, of Kansas City Terminal Railway Company, deposited with The First National Bank of Kansas City, Missouri, under Stock Trust Agreement dated June 12, 1909.

SEVENTH. All of the Railroad Company's estate, right, title, interest, terms and remainders of terms, franchises, privileges and rights of action of whatsoever name and na-

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ture in law or in equity in and to (but not limited to) the following principal trackage, terminal or operating contracts or agreements or leases, and all amendments, supplements, extensions and renewals thereof, aggregating approximately:

Miles of first main track	895.70
Additional main tracks	283.10
Yard tracks and sidings	603.71
Total	1,782.51

(1) With Chicago Union Station Company, dated July 2, 1915, for a term expiring July 3, 1963, covering the use of passenger station and transfer facilities at Chicago, Illinois.

(2) With Chicago and North Western Railway Company, dated September 28, 1932, for an indefinite period, covering trackage rights between Techny and Bensenville, Illinois.

(3) With Davenport, Rock Island and Northwestern Railway Company, dated February 27, 1901, for a term of 999 years, covering trackage rights from Clinton, Iowa, via Davenport, Iowa, to East Moline, Illinois.

(4) With the Chicago, Rock Island & Pacific Railway Company and Chicago, Burlington & Quincy Railroad Company, dated August 21, 1917, for an indefinite period, covering trackage rights between Clinton and Chancy, Iowa.

(5) With Chicago, Burlington & Quincy Railroad Company, dated March 23, 1903, for a term of 99 years, covering trackage rights between Steward Junction and Davis Junction, Illinois.

(6) With Chicago, Burlington & Quincy Railroad Company, dated August 31, 1928, for a term of 25 years, covering trackage rights between Davis Junction and Rockford, Illinois.

(7) With Indiana Harbor Belt Railroad Company, dated July 1, 1921, for a term ending October 4, 1995,

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covering trackage rights between Franklin Park and Blue Island, Illinois.

(8) With Indiana Harbor Belt Railroad Company, dated December 4, 1913, for an indefinite period, covering trackage rights between Franklin Park, Illinois, and a connection with the line of Chicago River & Indiana Railroad near Western Avenue, Chicago, Illinois.

(9) With Chicago River & Indiana Railroad Company covering trackage rights in the City of Chicago, Illinois, between a point of connection with Indiana Harbor Belt Railroad Company, near Oakley Avenue, and Ashland Avenue (Union Stock Yards), in said Chicago.

(10) With Union Pacific Railroad Company, dated May 27, 1898, for a term of 999 years and September 1, 1898, for a term of 50 years, covering trackage rights between Council Bluffs, Iowa, and Omaha, Nebraska, including a bridge across the Missouri River and the use of the passenger station in said Omaha.

(11) With The Chicago, Rock Island & Pacific Railway Company, dated August 1, 1901, for a term of 99 years, covering trackage rights between Davenport and Muscatine, Iowa.

(12) With The Chicago, Rock Island & Pacific Railway Company, dated August 1, 1931, for a term ending December 31, 2030, covering trackage rights between Polo and Birmingham, Missouri.

(13) With Chicago, Burlington & Quincy Railroad Company, dated October 17, 1933, for an indefinite period, covering trackage rights between Ayers and Ebner, Illinois.

(14) With Illinois Central Railroad Company, dated March 23, 1903, for an indefinite period, covering trackage rights between Burlington Street and Fifth Street in Mendota, Illinois.

(15) With The New York Central Railroad Company, dated February 9, 1903, for a term of 99 years, covering trackage rights between Seatonville and McNabb, Illinois.

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(16) With The New York Central Railroad Company, dated February 9, 1903, for a term of 99 years, covering trackage rights between DePue Junction and DePue, Illinois.

(17) With The New York Central Railroad Company, dated February 9, 1903, for a term of 99 years, covering trackage rights within the City of Ladd, Illinois.

(18) With Des Moines Union Railway Company, dated January 1, 1924, for a term of 25 years, covering the use of passenger station and terminal facilities at Des Moines, Iowa.

(19) With Illinois Central Railroad Company, dated March 18, 1892, for an indefinite period, covering trackage rights within the City of Dubuque, Iowa.

(20) With Kansas City Terminal Railway Company, dated June 12, 1909, for a term of 200 years, covering the use of passenger station and terminal facilities at Kansas City, Missouri, and Kansas City, Kansas.

(21) With Escanaba and Lake Superior Railroad Company, dated January 1, 1921, for a term ending January 1, 1951, covering trackage rights between Channing Junction and Wells, Michigan.

(22) With Chicago and North Western Railway Company, dated July 6, 1933, for an indefinite period, covering trackage rights between Stiles Junction and Oconto, Wisconsin.

(23) With Elgin, Joliet and Eastern Railway Company, dated September 3, 1930, for a term of ten years and thereafter until cancelled on six months' notice, covering trackage rights between Aurora and Joliet, Illinois.

(24) With Chicago and North Western Railway Company, dated April 11, 1935, for a term of 99 years covering trackage rights between Crystal Falls, Iron River, Iron Mountain and Escanaba, Michigan.

(25) With Wisconsin Central Railway Company and Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, dated April 15, 1919, for a term of 99 years, covering trackage rights between Eau Claire and Chippewa Falls, Wisconsin.

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(26) With Northern Pacific Railway Company, dated October 1, 1900, for a term ending October 15, 1999, covering trackage rights between St. Paul and Duluth, Minnesota.

(27) With Northern Pacific Railway Company, dated October 1, 1900, for a term ending October 15, 1999, covering trackage rights between Carlton and Cloquet, Minnesota.

(28) With Northern Pacific Railway Company, dated October 1, 1900, for a term ending October 15, 1999, covering trackage rights between Carlton, Minnesota, and West Superior, Wisconsin.

(29) With Chicago Great Western Railway Company, dated December 1, 1902, for an indefinite period, covering trackage rights between Benning and Mankato, Minnesota.

(30) With Chicago, Burlington & Quincy Railroad Company, dated May 28, 1902, for an indefinite period, covering trackage rights between St. Croix Junction and St. Paul, Minnesota.

(31) With Chicago, St. Paul, Minneapolis and Omaha Railway Company, dated May 4, 1904, for a term of 99 years, covering trackage rights between Bayport and Stillwater, Minnesota.

(32) With The Saint Paul Union Depot Company, dated December 18, 1916, for a term of 99 years, covering the use of passenger station and terminal facilities at St. Paul, Minnesota.

(33) With Union Pacific Railroad Company, dated June 10, 1913, for a term of 999 years, covering trackage rights between Manito and Dishman, Washington.

(34) With Union Pacific Railroad Company, dated September 21, 1913, for a term of 999 years, covering

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trackage rights between Dishman and Spokane, Washington.

(35) With Union Pacific Railroad Company, dated April 15, 1912, for a term of 999 years, covering trackage rights between Spokane and Marengo, Washington.

(36) With Pacific Coast Railroad Company, dated May 21, 1906, for a term of 99 years, covering trackage rights between Maple Valley and Seattle, Washington.

(37) With Northern Pacific Railway Company, dated July 31, 1911, for a term of 999 years, covering trackage rights between Aberdeen and Hoquiam, Washington.

(38) With Washington, Idaho & Montana Railway Company, dated December 10, 1917, for an indefinite period, covering trackage rights between Purdue and Bovill, Idaho.

(39) With White River Lumber Company, dated June 7, 1933, for an indefinite period, covering terminal trackage rights at Enumclaw, Washington.

(40) With Union Pacific Railroad Company, dated October 4, 1923, for a term ending June 30, 2006, covering trackage rights between Argo, Washington and the passenger depot, including joint use of said passenger depot, in the City of Seattle, Washington.

(41) With Port Townsend Southern Railroad Company, dated April 22, 1915, for an indefinite period, covering trackage between Discovery Junction and Port Townsend, Washington.

(42) With Great Northern Railway Company, dated November 2, 1936 and November 17, 1938, in perpetuity, covering trackage rights between Monroe and Lowell, Washington.

(43) With Northern Pacific Railway Company, dated May 29, 1937, in perpetuity, covering trackage rights between Lowell and Everett, Washington.

(44) With Northern Pacific Railway Company, dated November 1, 1931, for a term of 99 years, covering

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trackage rights between Chehalis and Olequa, Washington.

(45) With Northern Pacific Railway Company, dated January 17, 1934, for a term of 999 years, covering trackage rights between Olequa and Longview Junction, Washington.

(46) With Northern Pacific Railway Company, dated January 20, 1934, for an indefinite period, covering trackage rights between Chehalis and Dryad, Washington.

(47) With Chehalis Western Railroad Company, dated May 7, 1936, for a term of 50 years, covering trackage rights between Skookumchuck and Vail, Washington.

(48) With Northern Pacific Railway Company, dated January 5, 1933, for an indefinite period, covering trackage rights between Bagley Junction and Enumclaw, Washington.

(49) With St. Louis—San Francisco Railway Company, dated June 20, 1921, for an indefinite period, covering trackage rights between connection with the Kansas City Terminal Railway Company and connection with Missouri—Kansas—Texas Railway Company at Kansas City, Missouri.

(50) With Great Northern Railway Company, dated May 8, 1941, in perpetuity, covering trackage rights in Great Falls, Montana.

(51) With The Pennsylvania Railroad Company, dated April 15, 1872, for an indefinite period, covering trackage rights between Western Avenue and connection with the Chicago Junction Railway, all within the City of Chicago, Illinois.

(52) With Rapid City, Black Hills & Western Railroad Company, dated December 20, 1905, for an indefinite period, covering trackage rights in Rapid City, South Dakota.

(53) With Chicago and North Western Railway Company, dated November 14, 1944, for an indefinite period, covering trackage rights at Camp McCoy, Wisconsin.

(54) With Cascade Timber Company, dated March 10,

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1934, for an indefinite period, covering trackage rights at Selleck, Washington.

(55) With Union Pacific Railroad Company, dated July 31, 1911, for a period of 999 years, covering trackage rights at Aberdeen, Washington.

(56) With Chicago, Burlington & Quincy Railroad Company, dated August 31, 1928, for a period of 25 years, covering trackage rights at Davis Junction, Illinois.

(57) With Great Northern Railway Company, dated May 1, 1916, for a term of 99 years, covering trackage rights at Coeur d'Alene, Idaho.

(58) With The Chicago, Rock Island & Pacific Railway Company, dated October 1, 1926, in perpetuity, covering trackage rights between Maple Island and Hollandale, Minnesota.

(59) With Northern Pacific Railway Company, dated November 24, 1890, for a term of 99 years, covering trackage rights at Stillwater, Minnesota.

(60) With Chicago and North Western Railway Company, dated October 5, 1931, for a term of 15 years and thereafter until cancelled by formal notice, covering trackage rights between Crystal Falls Junction and Crystal Falls, Michigan.

(61) With The Kansas City Southern Railway Company, dated May 1, 1942, for a term of 99 years, covering trackage rights in Kansas City, Missouri, and Kansas City, Kansas.

(62) With Great Northern Railway Company, dated January 25, 1945, in perpetuity, covering trackage rights between Spokane Bridge, Washington, and Coeur d'Alene, Idaho.

EIGHTH. All of the Railroad Company's estate, right, title, interest, terms and remainders of terms, franchises, privileges and rights of action of whatsoever name and nature in law or in equity in and to any and all other leases, leasehold rights, joint facilities and other trackage contracts, rights and privileges and amendments and renewals and extensions thereof, not specifically described in granting clause SEVENTH, now owned or hereafter acquired by the Railroad Company in

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connection with or relating to the ownership, use or operation by the Railroad Company of any of its lines of railroad, or any terminals or union or other stations, situated along, or at the terminus of, any of the Railroad Company's lines of railroad.

NINTH. Any and all right, title and interest of every name and nature of the Railroad Company in and to any and all telegraph, telephone or other communication facilities now owned by or hereafter acquired by the Railroad Company; and the rights and agreements covering the rights to the use of any and all telegraph, telephone or other communication facilities along the Railroad Company's lines of railroad, as they may be used from time to time or subject to use by the Railroad Company.

TENTH. Any and all corporate rights, powers, franchises, privileges and immunities now or hereafter owned or possessed by the Railroad Company.

ELEVENTH. All property of every kind and description which may hereafter be acquired by the Railroad Company and which (a) shall be acquired in replacement of or substitution for any property now owned by the Railroad Company and subject to the lien of the Mortgage or which may at any time become subject to the lien of the Mortgage, or (b) shall be appurtenant to or acquired for use upon or in connection with any of the Railroad Company's lines of railroad or for use upon or in connection with any other property, real or personal, which may at the time be subject to the lien of the Mortgage, or (c) shall be acquired in whole or in part by the use of Bonds issued under the Mortgage or First Mortgage Bonds issued under the Railroad Company's First Mortgage, or moneys deposited with the Trustee under any provision of the Mortgage or with the trustee of the First Mortgage under any provision thereof, or (d) by any provision of the Mortgage the Railroad Company is required to convey, mort-

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gage, pledge, assign or transfer to the Trustee hereunder; provided, however, that if the Railroad Company shall acquire substantially all of the properties of any Class I Carrier (as defined in Article I), such properties shall be subject to the lien of the Mortgage only to the extent and under the conditions provided in Article XII.

TWELFTH. All property of every kind and description, in addition to that above described, which, at any time hereafter, by indenture or indentures supplemental hereto, or other instruments of transfer, may be expressly conveyed, mortgaged or pledged, delivered, assigned or transferred to the Trustee hereunder by the Railroad Company or by a successor corporation, or with its consent by anyone in its behalf, as and for additional security or substitute security for the Bonds issued and to be issued hereunder, the Trustee being hereby authorized at any time and at all times to receive such conveyance, mortgage, pledge, delivery, assignment or transfer and to hold and apply any and all such properties subject to the trusts of the Mortgage; provided that any such conveyance, mortgage, pledge, delivery, assignment or transfer made pursuant to the provisions of this granting clause TWELFTH, as and for additional security or substituted security, may be made subject to any liens, reservations, limitations, conditions and provisions, consistent with the provisions of the Mortgage, which shall be specified or set forth in such supplemental indenture or instrument of transfer.

THIRTEENTH. All other property of every kind and description, real, personal or mixed, acquired by the Railroad Company from Henry A. Scandrett, Walter J. Cummings and George I. Haight, as trustees of the Debtor's property, or in which the Railroad Company now has any right, title or interest.

FOURTEENTH. All property which may now or at any time hereafter be subject to the lien of the Railroad Company's

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First Mortgage, it being the intention that the Mortgage shall constitute a lien junior to the lien of the First Mortgage on all property which may at any time be subject to the lien of said First Mortgage, except moneys held in trust by the Trustee under any of the provisions of the Mortgage.

FIFTEENTH. All rents, issues, tolls, profits and other income from the premises and property herein or hereafter mortgaged, and conveyed or assigned, or intended so to be.

SIXTEENTH. All Securities (as defined in Article I) now owned or hereafter acquired by the Railroad Company.

SEVENTEENTH. All property which from time to time hereafter shall be constructed or acquired by the Railroad Company, whether or not such property is particularly described in the Mortgage or required to be specifically subjected to the lien of the Mortgage pursuant to any provisions hereof.

For the purposes of the foregoing granting clauses FIRST to SEVENTEENTH, inclusive:

(1) The word "property" shall be deemed to include property of every kind and description, whether real, personal, or mixed, whether tangible or intangible, and whether of present or future interests, including without limitation, franchises, leaseholds, stocks, bonds and other securities;

(2) The "Railroad Company's lines of railroad" shall be deemed to include any main or branch or cut-off lines of railroad, and any and all main, branch, second, spur, side, industrial, switch, connecting, storage, yard, terminal, passing and shop tracks and turnouts, which the Railroad Company may own, either solely or jointly, or over which the Railroad Company may operate or have any right to operate under any lease or trackage agreement;

(3) Out of the grants hereby made, the last day of the term of each leasehold estate (whether created orally or by written instrument) now or hereafter enjoyed by the

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Railroad Company is hereby excepted and reserved, whether falling within the general or particular description of property herein described;

(4) It is not intended to subject to the lien hereof, and this grant shall not be deemed to apply to, any Equipment, or equity in Equipment, which may now or at any time hereafter be lodged under the lien of any of the Modified Terre Haute Mortgages (as defined in Article I) in accordance with the terms and provisions thereof and acquired or constructed for that purpose;

(5) It is not intended to subject to the lien hereof, and this grant shall not be deemed to apply to

(a) any rents, issues, tolls, profits or other income of the premises and property herein or hereafter mortgaged and conveyed or assigned, or

(b) any cash, government securities, federal, state or local, or bills, notes or accounts receivable (except cash, government securities or bills, notes or accounts receivable deposited or required to be deposited with the Trustee pursuant to any of the provisions of the Mortgage),

(c) any materials or supplies, or

(d) any Special Securities, as defined in Article I, unless and until one or more of the Events of Default enumerated in Section 2 of Article XVII hereof shall have occurred; but, upon the occurrence of any such Event of Default, all such rents, issues, tolls, profits and other income, cash, government securities, bills, notes and accounts receivable, materials and supplies and Special Securities shall immediately become subject to the lien hereof to the extent permitted by law;

(6) The provisions of the Mortgage, including those in the foregoing granting clauses First to Seventeenth, inclusive, shall be construed, and the lien of the Mortgage at any time shall be determined, in conformity with the following grants, restrictions, and rules of construction, which shall prevail over any other provision of the Mortgage in the event of any inconsistency therewith:

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(a) Subject to the limitations of Article XII, the provisions of the Mortgage which may reasonably be construed to subject to the lien of the Mortgage property which may be acquired hereafter by the Railroad Company, or in which the Railroad Company hereafter may acquire an interest, shall be construed as applying to such property, and a liberal scope and effect shall be given to such provisions.

(b) Nothing in the Mortgage, express or implied, is intended or shall be construed to limit the right or power of the Railroad Company, which is hereby expressly reserved, to acquire any property or interest therein subject to the liens or charges existing thereon at the time of the acquisition thereof, or to create thereon any purchase money mortgage.

(c) Nothing in the Mortgage, express or implied, is intended or shall be construed to limit the right of the Railroad Company, which is hereby expressly reserved, to consolidate with or merge into, or to convey or lease the mortgaged property as a whole, or substantially as a whole, to another corporation or corporations, or to merge another corporation or corporations into the Railroad Company, or to acquire the property, as a whole or substantially as a whole, of another corporation or corporations, all as provided and with the exceptions and upon the terms and conditions set forth in Article XII hereof.

(d) Nothing in the Mortgage, express or implied, is intended or shall be construed to limit the right or power of the Railroad Company, which is hereby expressly reserved, to subject Equipment constructed or acquired for its use, at any time within two years from the date the same is so constructed or acquired, to any Equipment Obligation which the Railroad Company may desire to create or undertake for the purpose of funding the cost of such construction or acquisition, provided the principal amount of such Equipment Obligation does not exceed an amount which, when added to the amount of

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expenditures from the Additions and Betterments Fund and the Reserve and Retirement Fund for or on account of the acquisition or construction of such Equipment, would exceed the Gross Expenditures for such Equipment, and that such Equipment has not therefore been made the basis for the authentication and delivery of any Bonds or First Mortgage Bonds or the withdrawal of cash held by the Trustee of the Mortgage under any provision thereof or by the trustee of the First Mortgage under any provision thereof. The right, charge, lien or title of any such Equipment Obligation with respect to Equipment subjected thereto as aforesaid shall in all respects be free from and prior to the lien of the Mortgage; and the lien of the Mortgage shall reattach to the right, title and interest of the Railroad Company then or thereafter existing with respect to such Equipment, as provided in granting clause Fifth.

(e) Nothing in the Mortgage, express or implied, is intended or shall be construed to limit the right or power of the Railroad Company, which is hereby expressly reserved, to use and apply any of its materials and supplies in the routine maintenance and repair of railroad equipment, whether owned by the Railroad Company or by any other railroad, after one or more Events of Default enumerated in Section 2 of Article XVII hereof shall have occurred and be continuing.

(f) Nothing in the Mortgage is intended or shall be construed to require the deposit with the Trustee of any securities, or of any instruments of the character referred to in granting clauses Seventh, Eighth, and Ninth, except such securities and instruments as are by the terms of the Mortgage specifically required to be so deposited.

To Have and to Hold the premises, railroads, railroad property, appurtenances, rights, privileges, franchises, estates, leaseholds, securities and other property, real, personal and

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mixed, hereby granted, bargained, sold, conveyed, released, confirmed, mortgaged, pledged, assigned, transferred or set over, or intended so to be, or which may in any manner become subject to the lien of the Mortgage by indenture supplemental hereto or otherwise (all of which property at any given time subject to the lien of the Mortgage, whether by the terms of the Mortgage, including the after-acquired property clauses thereof, or by subsequent conveyance, delivery or pledge to the Trustee, or otherwise, is herein sometimes referred to as the "mortgaged property");

Subject, However, to the following:

(1) The prior lien of the Railroad Company's First Mortgage, as defined in Article I, upon all of the mortgaged property except moneys held in trust by the Trustee under any of the provisions of the Mortgage;

(2) The prior rights, charges, lien and title under the following Equipment Obligations assumed by the Railroad Company in accordance with the Plan and the orders of the Court covering the following described Equipment:

(a) The Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series M, formed April 24, 1934, and modifications thereof, covering the following equipment:

21 baggage-express cars, numbered 1100 to 1122, both inclusive (except 1111 and 1118);

2 lounge-diner cars, numbered 5251 and 5252;

45 passenger coaches, numbered 4401 to 4448, both inclusive (except 4422, 4431 and 4441);

4 parlor cars, named Ishkoodah, Minnewawa, Nokomis and Wenonah;

13 box cars, numbered 19049 to 19061, both inclusive; and

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2 trouble shooter motor cars, numbered X670 and X671.

(b) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series O, formed March 1, 1936, and modifications thereof, covering the following equipment:

17 passenger coaches, numbered 400 to 416, both inclusive;

2 lounge-diner cars, numbered 151 and 152;

6 parlor cars, named Opechee, Sahwa, Iagoo, Omeme, Shada and Wawa;

2 dining cars, numbered 100 and 101;

4 mail-express cars, numbered 1200 to 1204, both inclusive (except 1201);

5 baggage cars, numbered 1300 to 1304, both inclusive;

1 steam locomotive, numbered 3;

499 hopper coal cars, numbered 94000 to 94499, both inclusive (except 94188);

490 automobile cars, numbered 13000 to 13499, both inclusive (except 13020, 13057, 13104, 13122, 13187, 13212, 13247, 13265, 13431 and 13472);

2 automobile cars, numbered 15001 and 15002;

489 automobile cars, numbered 6000 to 6499, both inclusive (except 6011, 6027, 6030, 6060, 6096, 6170, 6227, 6266, 6291, 6367 and 6464);

2 automobile cars, numbered 8001 and 8002;

9 box cars, numbered 19062 to 19070, both inclusive; and

4 air dump cars, numbered X905300 to X905303, both inclusive.

(c) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series P, formed January 1, 1937, covering the following equipment:

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30 steam freight locomotives, numbered 201 to 230, both inclusive; and

1 steam passenger locomotive, numbered 4.

(d) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series Q, formed March 1, 1937, and modifications thereof, covering the following equipment:

19 passenger coaches, numbered 417 to 436, both inclusive (except 420);

7 dining cars, numbered 102 to 108, both inclusive;

1 mail-express car, numbered 1205;

4 coach and baggage cars, numbered 201 to 205, both inclusive (except 203);

496 hopper coal cars, numbered 94500 to 94999, both inclusive (except 94657, 94739, 94833, and 94888);

495 automobile cars, numbered 13500 to 13999, both inclusive (except 13728, 13759, 13876, 13897 and 13901);

35 gondola cars, numbered 81000 to 81034, both inclusive;

11 box cars, numbered 19071 to 19082, both inclusive (except 19080);

1 steam wrecking derrick, numbered X17; and

2 air dump cars, numbered X905304 and X905305.

(e) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series R, formed August 1, 1937, and modifications thereof, covering the following equipment:

996 gondola cars, numbered 80000 to 80999, both inclusive (except 80054, 80081, 80342 and 80995);

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2 steam passenger locomotives, numbered 100 and 101;

5 flat cars, numbered 65964 to 65968, both inclusive; and

1 air dump car, numbered X905306.

(f) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series S, formed April 1, 1938, and modification thereof, covering the following equipment:

4 steam passenger locomotives, numbered 102 to 105, both inclusive;

3 tap room-baggage cars, numbered 154, 155 and 156;

1 express car, numbered 1308;

4 dining cars, numbered 109 to 112, both inclusive;

10 parlor cars, named Mitchell, Merrill, Miller, Earling, Hiland, Manchester, Whittemore, Chandler, Hanson and Sewall;

17 coaches, numbered 437 to 453, both inclusive;

2 railway post office cars, numbered 2150 and 2151;

1 mail and express car, numbered 1206;

3 baggage cars, numbered 1305, 1306 and 1307;

10 branch line coach-baggage-mail cars, numbered 2750 to 2759, both inclusive;

10 branch line coach-baggage cars, numbered 2708 to 2717, both inclusive; and

463 flat cars, numbered 65500 to 65963, both inclusive (except 65507).

(g) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series T, formed April 1, 1939,

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and modifications thereof, covering the following equipment:

994 box cars, numbered 18000 to 18999, both inclusive (except 18170, 18479, 18524, 18594, 18613 and 18648);

72 cabooses, numbered 01800 to 01874, both inclusive (except 01817, 01844 and 01861);

104 box cars, numbered 19083 to 19187, both inclusive (except 19151); and

3 air dump cars, numbered X905307, X905308 and X905309.

(h) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series U, formed December 1, 1939, and modification thereof, covering the following equipment:

10 steam freight locomotives, numbered 231 to 240, both inclusive;

1985 box cars, numbered 19188 to 21187, both inclusive (except 19202, 19282, 19345, 19543, 19994, 20011, 20045, 20205, 20325, 20343, 20382, 20603, 20738, 21009 and 21141); and

3 air dump cars, numbered X905299, X905310 and X905311.

(i) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series V, formed April 1, 1941, and modifications thereof, covering the following equipment:

1 diesel-electric freight locomotive, numbered 40;

2 diesel-electric passenger locomotives, numbered 14 and 15;

2 diesel-electric switching locomotives, numbered 1682 and 1683;

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1 diesel-electric switch and light road service locomotive, numbered 1634;

10 diesel-electric switch and light road service locomotives, numbered 1700 to 1709, both inclusive;

2 tap room cars, numbered 160 and 161;

8 coaches, numbered 454 to 461, both inclusive;

6 coaches, numbered 473 to 478, both inclusive;

2 coach-baggage cars, numbered 206 and 207;

2 dining cars, numbered 113 and 114;

2 steam heat cars, numbered 70 and 71;

18 box express cars, numbered 925, 926, 927, 928, 929, 932, 933, 935, 936, 937, and 940 to 947, both inclusive;

479 box cars, numbered 50000 to 50499, both inclusive (except 50441, 50475 to 50481, both inclusive, 50484, 50485, 50487, 50488, 50489, and 50492 to 50499, both inclusive):

24 cabooses, numbered 01900 to 01924, both inclusive (except 01917); and

3 air dump cars, numbered X905312, X905313 and X905314.

(j) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series W, formed November 1, 1941, and modifications thereof, covering the following equipment:

9 diesel-electric switching locomotives, numbered 1650, 1651, 1653, 1654, and 1670 to 1674, both inclusive;

1 diesel-electric switching locomotive, numbered 1649;

19 diesel-electric switching locomotives, numbered 1600, 1601, 1602, 1603, and 1610 to 1624, both inclusive;

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1 diesel-electric switching locomotive, numbered 1699;

98 automobile cars, numbered 6500 to 6599, both inclusive (except 6543 and 6556);

499 hopper coal cars, numbered 95000 to 95499, both inclusive (except 95220);

735 gondola cars, numbered 82000 to 82734, both inclusive;

400 flat cars, numbered 64000 to 64399, both inclusive; and

1 air dump car, numbered X905315.

(k) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series X, formed March 1, 1944, and modification thereof, covering the following equipment:

10 steam freight locomotives, numbered 260 to 269, both inclusive;

6 diesel-electric freight locomotives, numbered 42 to 47, both inclusive;

1 wrecking derrick, numbered X18;

1000 box cars, numbered 21188 to 22187, both inclusive;

499 box cars, numbered 50500 to 50999, both inclusive (except 50548);

35 gondola cars, numbered 93500 to 93534, both inclusive;

35 covered hopper cars, numbered 99035 to 99069, both inclusive; and

25 cabooses, numbered 01925 to 01949, both inclusive.

(l) Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series Y, formed April 1, 1945,

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and modification thereof, covering the following equipment:

1000 box cars, numbered 22188 to 23187, both inclusive; and

15 cabooses, numbered 02000 to 02014, both inclusive.

(m) Lease agreement, dated April 27, 1940, between General American Transportation Corporation and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, covering the following equipment:

35 covered hopper cars, initialed GACX and numbered 40900 to 40934, both inclusive.

(n) Conditional sale agreement, dated as of September 1, 1940, between The Baldwin Locomotive Works and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Continental Illinois National Bank and Trust Company of Chicago, covering the following equipment:

2 diesel-electric switching locomotives, numbered 1680 and 1681.

(o) Conditional sale agreement, dated as of September 1, 1940, between Electro-Motive Corporation and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to The New York Trust Company, and modification thereof, covering the following equipment:

9 diesel-electric switching locomotives, numbered 1625 to 1633, both inclusive; and

1 diesel-electric switching locomotive, numbered 1652.

(p) Conditional sale agreement, dated as of June 1, 1945, between General Motors Corporation (Electro-Motive Division) and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

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5 diesel-electric freight locomotives, numbered 35 to 39, both inclusive; and

5 diesel-electric passenger locomotives, numbered 16 to 20, both inclusive.

(q) Conditional sale agreement, dated as of June 25, 1945, between Fairbanks, Morse & Company and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

10 diesel-electric switching locomotives, numbered 1803 to 1812, both inclusive.

(r) Conditional sale agreement dated as of July 25, 1945, between The Baldwin Locomotive Works and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

4 diesel-electric switching locomotives, numbered 1688 to 1691, both inclusive.

(s) Conditional sale agreement, dated as of August 10, 1945, between American Locomotive Company and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

6 diesel-electric switching locomotives, numbered 1657 to 1662, both inclusive.

(t) Conditional sale agreement, dated as of September 5, 1945, between Paul B. Robb and Edward J. Friedrich, Owners, and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trus-

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tees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

500 flat cars, numbered 65969 to 66468, both inclusive; and

25 cabooses, numbered 01950 to 01974, both inclusive,

under which Equipment Obligations the unpaid balance of outstanding obligations as of the close of business on October 31, 1945, aggregated $23,250,837.92 in principal amount.

(3) All and singular the other matters hereinabove set forth in the granting clauses hereof and to Permitted Encumbrances as defined in Article I but only to the extent that the same shall constitute a prior lien or charge of record against any part of the mortgaged property;

But in Trust, Nevertheless, upon the terms and conditions of the Mortgage, for the equal and proportionate benefit and security, except as provided in Article II and in Section 1 of Article XVII, of all present and future holders of Bonds and coupons, according to their tenor, purport and effect, without preference, priority or distinction (except as provided in Section 1 of Article XVII) as to lien or otherwise; so that (except as aforesaid) each and every Bond and coupon shall have the same right, lien and privilege under the Mortgage and shall be equally and proportionately secured thereby in accordance with the provisions of the Mortgage;

And it is Hereby Covenanted and Declared that all of the Bonds and coupons for interest thereon, if any, are to be issued, authenticated and delivered, and that the mortgaged property is to be held and disposed of by the Trustee, upon and subject to the following covenants, conditions, uses and trusts:

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Article I

ARTICLE I

Definitions

The terms defined in this Article I (unless otherwise expressly provided or unless the context otherwise requires) shall have the respective meanings specified in this Article I for all purposes of the Mortgage.

(1) "Additions and Betterments" shall mean all physical property, or any undivided interest therein, of the Railroad Company becoming subject to the lien of the Mortgage, or located on any leasehold that is subject to the lien of the Mortgage (except the lease of the property of Chicago, Terre Haute and Southeastern Railway Company), acquired or constructed by the Railroad Company, or by the trustees of the Debtor's property in the reorganization proceedings above mentioned, after December 31, 1943, the cost or investment in which, at the time of acquisition or construction, was properly chargeable to Capital Accounts.

(2) "Additions and Betterments Fund" shall mean the fund created and maintained by the Railroad Company in accordance with the provisions of Article VI.

(3) "Application" shall mean a letter or other instrument in writing dated and signed, not more than 30 days prior to its delivery to the Trustee, by the President or a Vice President of the Railroad Company and by either (a) the Secretary or an Assistant Secretary of the Railroad Company, or (b) the Chief Accounting Officer of the Railroad Company, setting forth briefly the nature of the matter or action covered by the application, referring to the particular provision or provisions of the Mortgage upon which the application is based, and enumerating the resolutions, certificates, opinions, securi-

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ties, cash, instruments of transfer and other papers and documents or property delivered or to be delivered to the Trustee with or in connection with such application.

(4) "Available Net Income" for any calendar year shall mean the consolidated income of the Railroad Company and its Railroad Subsidiaries for such year available for fixed charges, after deducting therefrom all fixed charges accrued during such year and all other charges properly deductible therefrom in determining consolidated income after fixed charges for such year exclusive of Contingent Interest (whether or not payable in the form of rent for leased properties) for such year and amounts required to be deposited in the Additions and Betterments Fund and in sinking funds for the retirement of Bonds and First Mortgage Bonds out of Available Net Income for such year, subject to the following:

(a) Consolidated income available for fixed charges and the deductions required to be made therefrom shall be determined in accordance with the Uniform System of Accounts applicable to such year, except that there shall be added thereto such amounts as shall have been charged to operating expenses during such year representing the service value (i.e. the ledger value less the value of salvage, if any) of any non-depreciable roadway property retired and not replaced.

(b) In determining consolidated income after fixed charges for any year any adjustment necessary to correct the income account for any prior year, whether before or after January 1, 1944, shall be made by appropriate entries and may be made either in the accounts of the current year (unless in violation of the applicable orders, instructions and regulations) or, in the discretion of the Board of Directors and subject to any requisite approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction, may be made in whole or in part in the accounts of any subse-

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quent year or years; and in determining Available Net Income for any year any such entries made in the accounts of that year to adjust entries in the income accounts of prior years, whether cleared through income or profit and loss accounts, shall be treated as items affecting the income accounts for the year in which they are entered on the books.

(c) All computations of Available Net Income shall be made on a calendar year basis and each calendar year shall constitute an income period.

(d) Available Net Income for each of the years 1944 and 1945 shall be computed in the same manner as if the Railroad Company had come into ownership and possession on January 1, 1944, of the properties operated during said years by the trustees of the Debtor's property in the reorganization proceedings hereinabove mentioned, and had issued as of January 1, 1944, the Bonds of Series A and Series B and all other new securities issuable under the Plan except the Modified Terre Haute Bonds.

(5) "Board of Directors" shall mean the Board of Directors of the Railroad Company as from time to time constituted or, except when the vote of a specified percentage or number of the whole Board of Directors is required, any finance committee or other committee of the Board of Directors which shall be authorized by resolution of the Board of Directors or by the by-laws of the Railroad Company to act in place of the Board of Directors during any period or for any purpose germane to the Mortgage.

(6) "Bondable Expenditures" shall mean the amount of Gross Expenditures minus the sum of:

(a) The Cost of Additions and Betterments acquired or constructed through grants or donations;

(b) The Cost of Additions and Betterments acquired or constructed from the use of the proceeds of insurance on road property retired and not replaced;

(c) The Cost of Additions and Betterments to the extent acquired or constructed through funds made available by salvage recovered from mortgaged road property retired and not replaced;

(d) The Cost of Additions and Betterments to the extent acquired by the Railroad Company subject to any Prior Lien whenever the total principal amount of Outstanding Prior Lien Bonds secured by such Prior Lien exceeds 75% of the Cost of such Additions and Betterments, including in such Cost the principal amount of such Outstanding Prior Lien Bonds whether or not issued or assumed by the Railroad Company;

(e) The amount of any reduction in the Cost of Additions and Betterments required by Section 3 of Article VIII with respect to any Equipment which shall be shown not to be new Equipment on the date of any Application for the authentication and delivery of Bonds or the withdrawal, payment or application of any cash under any provision of the Mortgage;

(f) An amount equal to 133⅓% of the principal amount of all Outstanding Prior Lien Bonds, and of all Bonds and First Mortgage Bonds issued on the basis of the pledge and deposit of Prior Lien Bonds, unless the Cost of Additions and Betterments securing such Prior Lien Bonds is deducted under clause (d) of this definition;

(g) An amount equal to 133⅓% of the principal amount of all Bonds and First Mortgage Bonds authenticated and delivered on the basis of the pledge of (i) Railroad Subsidiary Bonds of a Railroad Subsidiary the property of which shall subsequently have been acquired by the Railroad Company as, or substantially as, an entirety, or (ii) Securities of any other corporation the property of which shall have been acquired by the Railroad Company, subsequent to such pledge, under the provisions of Sections 7 and 8 of Article X;

(h) The amount of Gross Expenditures that shall have become Bonded; and

(i) The amounts credited to Capital Accounts after December 31, 1943, in accordance with the requirements of the Uniform System of Accounts, by reason of the retirement of mortgaged road property replaced.

(7) "Bonded," when used with reference to Bonds, Additions and Betterments, Gross Expenditures, or Bondable Expenditures, shall mean that such Bonds, Additions and Betterments, Gross Expenditures or Bondable Expenditures have been made the basis by the Railroad Company for (a) the authentication and delivery of any Bonds or First Mortgage Bonds, (b) the reduction of the amount of cash required to be deposited with the Trustee for the release of any property from the lien of the Mortgage or with the trustee of the First Mortgage for the release of any property from the lien of the First Mortgage, or (c) the withdrawal, payment or application of any cash held by the Trustee under any provision of the Mortgage or by the trustee of the First Mortgage under any provision thereof; and, when used with reference to First Mortgage Bonds, Railroad Subsidiary Bonds, Special Securities, Investment Securities or Prior Lien Bonds, or any securities acquired in substitution therefor, shall mean that such Bonds or Securities, or any securities acquired in substitution therefor, have been made the basis by the Railroad Company for (a) the authentication and delivery of any Bonds or First Mortgage Bonds, or (b) the withdrawal, payment or application of any cash held by the Trustee under any provision of the Mortgage, or by the trustee of the First Mortgage under any provision thereof.

All of the mortgaged property owned by the Railroad Company, or by the trustees of the Debtor's property in the reorganization proceedings above mentioned, on January 1, 1944, shall for all purposes of the Mortgage be deemed to be Bonded.

If any Gross Expenditures, Bondable Expenditures, Bonds, Railroad Subsidiary Bonds, Special Securities, Investment Securities or Prior Lien Bonds, made the basis for any of the foregoing purposes, shall be in excess of the amount required for the particular purpose, such excess shall not be deemed to be Bonded.

(8) "Bondholders" shall mean, as of any particular date, all holders of coupon Bonds not registered as to principal and all registered owners of coupon Bonds registered as to principal and of registered Bonds without coupons, provided such Bonds, whether coupon or registered, are Outstanding Bonds.

(9) "Bonds" shall mean all bonds of all series which have been authenticated and delivered at any time under the Mortgage.

(10) "Capital Accounts" shall mean the following present accounts, or similar accounts performing the functions of said present accounts, maintained by the Railroad Company and by the trustees of the Debtor's property in the reorganization proceedings above mentioned, in accordance with the Uniform System of Accounts:

Account 701—Road and Equipment Property
Account 702—Improvements on Leased Property, and
Account 705—Miscellaneous Physical Property.

(11) "Certified Resolution" shall mean a resolution or resolutions certified by the Secretary or an Assistant Secretary of the Railroad Company, under its corporate seal, as having been duly adopted by the Board of Directors at a meeting held on a specified date and as being in full force and effect as of the date of certification.

(12) "Chief Accounting Officer" shall mean, as of any particular time, the officer having general supervision over the accounts of the Railroad Company or his principal assistant.

(13) "Class I Carrier" shall mean any common carrier corporation which, for the calendar year next preceding the time of any transaction requiring a determination thereof under any provision of the Mortgage, had gross operating revenue, determined in accordance with the Uniform System of Accounts, of more than One Million Dollars.

(14) "Contingent Interest" shall mean the interest on the Bonds or other obligations of the Railroad Company and the Modified Terre Haute Bonds to the extent that such interest is payable on condition that there is Available Net Income or other funds applicable to such payment.

(15) "Cost of Additions and Betterments" shall mean, with respect to any particular Additions and Betterments, the amount properly charged to Capital Accounts as the cost or investment of the Railroad Company therein, and, with respect to any period of time, the aggregate of all such amounts properly charged to Capital Accounts during such period.

(16) "Daily Newspaper" shall mean, with respect to any City or Borough, a newspaper printed in the English language and customarily published on each business day and of general circulation in such City or Borough.

(17) "Debt Securities" shall mean the bonds, notes, certificates of indebtedness and other obligations and claims for the payment of money of any corporation or analogous legal entity.

(18) "Engineer" shall mean, as of any particular time, the Chief Engineer of the Railroad Company or his principal assistant.

(19) "Engineer's Certificate" shall mean a certificate signed and verified by the Engineer.

(20) "Equipment" shall mean locomotives, however propelled or operated, passenger, freight, mail, express, baggage or other railway cars, work cars, buses, tractors, trailers, trucks, automobiles, aircraft, boats, vessels, tugs, lighters, floats, barges, ferries and any and all other vehicles and conveyances used for the transportation of passengers, employees, freight, mail, express, baggage and materials by land, air or water.

(21) "Equipment Obligation" shall mean with respect to the Railroad Company any obligation or guaranty of the Railroad Company (other than Bonds and First Mortgage Bonds), and with respect to a Railroad Subsidiary any obligation or guaranty of such Subsidiary, issued under, and secured by a right, charge, lien or title with respect to Equipment evidenced by, an equipment trust agreement, conditional sale agreement, rental agreement, lease, chattel mortgage or other such instrument.

(22) "Event of Default" shall mean any event defined as such in Section 2 of Article XVII.

(23) "First Mortgage" shall mean the indenture executed and delivered by the Railroad Company to Continental Illinois National Bank and Trust Company of Chicago, as trustee, dated as of January 1, 1944, as amended, modified or supplemented from time to time, or any mortgage having a substantially equivalent lien.

(24) "First Mortgage Bonds" shall mean all bonds authenticated and delivered under the First Mortgage.

(25) "Gross Expenditures" shall mean the Cost of Additions and Betterments, except:

(a) Additions and Betterments representing property acquired from others which shall be required or permitted by the Uniform System of Accounts to be charged to Capital Accounts at the original cost thereof when first devoted to railroad purposes, to the extent that such original cost exceeds the cost or investment of the Railroad Company therein;

(b) Additions and Betterments located on any leasehold subject to the lien of the Mortgage, unless the lease by its terms expires not earlier than 10 years subsequent to the date of maturity of the latest maturing Bonds then outstanding or Bonds for the authentication and delivery of which Application is then being made, or unless the Railroad Company has the right to remove such Additions and Betterments or to be reimbursed for the Cost thereof upon termination of the lease;

(c) Additions and Betterments representing Equipment that is not new when acquired by the Railroad Company;

(d) Additions and Betterments representing Equipment that is or has been security by lien or otherwise for any Equipment Obligation;

(e) Additions and Betterments representing improvements or betterments of Equipment; and

(f) Additions and Betterments in an amount equal to the funds which under the provisions of Section 24 of Article IX the Railroad Company has covenanted shall be applied only to provide for Gross Expenditures and which have not been so applied.

(26) "Investment Securities" shall mean the Securities, owned by the Railroad Company, of any corporation owning one or more lines of railroad, bridges or railroad terminals connected directly, or by leasehold rights, trackage rights or similar operating rights, with the lines of railroad owned by

the Railroad Company, except Special Securities and Securities of a Railroad Subsidiary.

(27) "Modified Terre Haute Bonds" shall mean the bonds issued under the respective Modified Terre Haute Mortgages pursuant to the Plan and the order of the Court, dated September 19, 1945, declaring the Plan effective as to the holders of the outstanding bonds secured by said Mortgages as constituted prior to the indentures supplemental thereto dated January 1, 1946.

(28) "Modified Terre Haute Mortgages" shall mean the following mortgages, as modified by supplemental indentures dated January 1, 1946:

(a) First mortgage of The Bedford Belt Railway Company to The Equitable Trust Company, trustee, dated June 1, 1898, as modified by supplemental indenture of The Bedford Belt Railway Company and Chicago, Terre Haute and Southeastern Railway Company to Mercantile National Bank of Chicago and Benjamin H. Rubenzik, successor trustees, dated January 1, 1946, securing The Bedford Belt Railway Company's First Mortgage Bonds, due January 1, 1994, in the principal amount of $350,000;

(b) First mortgage of The Southern Indiana Railway Company to The Equitable Trust Company, trustee, dated February 1, 1901, as supplemented by supplemental indenture of Chicago, Terre Haute and Southeastern Railway Company to Girard Trust Company, as successor trustee, dated November 30, 1910, and as modified by supplemental indenture of The Southern Indiana Railway Company and Chicago, Terre Haute and Southeastern Railway Company to Girard Trust Company, successor trustee, dated January 1, 1946, securing The Southern Indiana Railway Company's First Mortgage Bonds, due January 1, 1994, in the principal amount of $7,287,000;

(c) First and refunding mortgage of Chicago, Terre Haute and Southeastern Railway Company to Illinois Trust and Savings Bank and William H. Henkle, trustees, dated December 1, 1910, as modified by supplemental in-

denture of Chicago, Terre Haute and Southeastern Railway Company to Continental Illinois National Bank and Trust Company of Chicago and Frank F. Taylor, successor trustees, dated January 1, 1946, securing Chicago, Terre Haute and Southeastern Railway Company's First and Refunding Mortgage Bonds, due January 1, 1994, in the principal amount of $9,573,000; and

(d) Income mortgage of Chicago, Terre Haute and Southeastern Railway Company to First Trust and Savings Bank and Louis Boisot, trustees, dated December 1, 1910, as modified by supplemental indenture of Chicago, Terre Haute and Southeastern Railway Company to The First National Bank of Chicago and Robert L. Grinnell, successor trustees, dated January 1, 1946, securing Chicago, Terre Haute and Southeastern Railway Company's Income Mortgage Bonds, due January 1, 1994, in the principal amount of $6,500,000.

(29) "Mortgage" shall mean this indenture as originally executed or as the same may be supplemented, modified or amended from time to time by any indenture supplemental hereto.

(30) "Officers' Certificate" shall mean a certificate which is signed and verified by the President or a Vice President and by the Chief Accounting Officer of the Railroad Company.

(31) "Opinion of Counsel" shall mean a written opinion of counsel who shall be satisfactory to the Trustee and who may be counsel for the Railroad Company.

(32) "Otherwise Financed" shall mean, with respect to Additions and Betterments, the expenditures therefor to the extent they have been financed by the Railroad Company through:

(a) Grants or donations;

(b) Proceeds of any insurance on any property retired;

(c) Funds made available by salvage recovered from property retired;

(d) Funds made available by charges to depreciation reserves on account of service losses on depreciable road property retired and replaced;

(e) Funds made available by charges to operating expenses on account of service losses on non-depreciable property retired and replaced;

(f) The Additions and Betterments Fund;

(g) The Reserve and Retirement Fund;

(h) Proceeds from sales of mortgaged property not required to be deposited with the Trustee or with the trustee of the First Mortgage or with the trustee or mortgagee of any Prior Lien; or

(i) The issuance or assumption of, or the acquisition of Additions and Betterments subject to, Prior Lien Bonds or Equipment Obligations; and

(j) The surrender or other use, under the provisions of Section 7 or 8 of Article X, of Securities theretofore Bonded.

(33) "Outstanding Bonds" shall mean, as of any particular date, all Bonds of all series when no particular series is specified in the context, or all Bonds of any specified series, whether in the form of coupon Bonds or registered Bonds without coupons or both, authenticated and delivered by the Trustee under the Mortgage, except, with respect to all Bonds of all series or all Bonds of any specified series, as the case may be,

(a) Bonds theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;

(b) Bonds for the payment, purchase or redemption of which moneys in the necessary amount shall have been deposited in trust with the Trustee, provided that if such Bonds are to be redeemed notice of such redemption shall have been given, or provision satisfactory to the Trustee shall have been made for giving such notice, as provided in Article IV;

(c) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to the provisions of Section 8 of Article II; and

(d) Bonds then owned and held by the Railroad Company, as evidenced by an Officers' Certificate delivered to the Trustee.

(34) "Outstanding Prior Lien Bonds" shall mean, as of any particular date, all Prior Lien Bonds authenticated and delivered by the trustee under the mortgage or other lien securing the same, except:

(a) Prior Lien Bonds theretofore redeemed or cancelled;

(b) Prior Lien Bonds deposited and pledged with the Trustee or with the trustee of the First Mortgage;

(c) Prior Lien Bonds held in pledge by the trustee or other holder of the mortgage or other lien securing such Prior Lien Bonds for the purpose of any sinking fund or analogous fund for the retirement of Prior Lien Bonds for which provision has been made in the instrument evidencing such mortgage or other lien;

(d) Prior Lien Bonds for the payment or redemption of which moneys in the necessary amount shall have been irrevocably deposited in trust with the Trustee or with the trustee or other holder of the mortgage or other lien securing such Prior Lien Bonds or in trust with any agency satisfactory to the Trustee, provided that if such Prior Lien Bonds are to be redeemed notice of such redemption shall have been given, or provision shall have been made for giving such notice, to the satisfaction of the Trustee; and

(e) Lost, stolen, mutilated or destroyed Prior Lien Bonds in lieu of or in substitution for which other Prior Lien Bonds shall have been issued.

(35) "Permitted Encumbrances" shall mean, as of any particular time, any of the following:

(a) Liens for taxes, assessments or governmental

charges not then delinquent; liens for workmen's compensation awards and similar obligations not then delinquent; liens or encumbrances in connection with litigation against the Railroad Company or any Railroad Subsidiary concerning claims for personal injuries or damages to property arising out of the operation of its business which are entitled to priority over the lien of the Mortgage by operation of law; other liens not exceeding $100,000 in the aggregate arising out of litigation against the Railroad Company; other liens against any Railroad Subsidiary in an amount not exceeding $20,000; liens for the payment or discharge of which provisions satisfactory to the Trustee have been made; mechanics', laborers', materialmen's and similar liens not then delinquent; any of such liens irrespective of amount, whether or not delinquent, the validity of which is being contested at the time by the Railroad Company, or by any Railroad Subsidiary, in good faith; and undetermined liens or charges incidental to construction.

(b) Liens securing indebtedness neither payable nor assumed nor guaranteed by the Railroad Company or by any Railroad Subsidiary, nor on which it customarily pays interest, on property with respect to which the Railroad Company or any Railroad Subsidiary owns easements or rights of way.

(c) Rights reserved to or vested in any governmental authority or agency or in any municipality by the terms of any franchise, grant, license or permit or by any provision of law to terminate such franchise, grant, license or permit, or to purchase or appropriate or recapture, or to designate a purchaser of, any of the mortgaged property; or to demand and collect any tax or other compensation for the use of streets or other public places or to control or regulate the mortgaged property.

(d) Any obligation or duty affecting the mortgaged property, or the uses, removal, control or regulation thereof by any public authority, under any franchise, grant, license or permit or provision of law.

(e) Rights of lessees under leases from the Railroad Company or any Railroad Subsidiary, and interests of

others than the Railroad Company or any Railroad Subsidiary in property owned jointly or in common.

(f) Easements, rights of way, exceptions, reservations, restrictions, conditions, limitations, covenants, adverse rights or interests and any other defects or irregularities in title affecting the mortgaged property which do not materially affect the use of the mortgaged property for the purposes for which it is held by the Railroad Company or any Railroad Subsidiary, as the case may be, and may be properly ignored as to their effect upon the security of the Mortgage. Any Opinion of Counsel required by the Mortgage may recite that, as to the matters covered by this clause (f), it is based upon a written statement of the Engineer.

(36) "Prior Lien" shall mean any lien prior to the lien of the Mortgage, except the First Mortgage, Equipment Obligations and Permitted Encumbrances, existing or placed on any property at the time of the acquisition thereof by the Railroad Company.

(37) "Prior Lien Bonds" shall mean any indebtedness or obligation secured by a Prior Lien and outstanding at the time of the acquisition by the Railroad Company of the property securing the same.

(38) "Railroad Company" shall mean and include not only the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the party of the first part to the Mortgage, but also any corporation that shall have complied with the provisions of Article XII and that shall have become a successor corporation as defined in Section 1 of said Article XII.

(39) "Railroad Subsidiary" shall mean any corporation owning one or more lines of railroad, bridges or railroad terminals connected directly, or by leasehold rights, trackage rights, or other similar operating rights, with the lines of railroad owned by the Railroad Company, which the Board of Directors shall deem necessary or useful in connection with the operation of the Railroad Company's sys-

tem and of which at least 90% of the total outstanding capital stock of each class is owned by the Railroad Company.

(40) "Railroad Subsidiary Bonds" shall mean the bonds of a Railroad Subsidiary secured by a general lien on all or substantially all of its physical property, subject only to Permitted Encumbrances and to the prior right, charge, lien or title of Equipment Obligations of such corporation:

(a) Issued prior to, and outstanding upon, the date such corporation shall become a Railroad Subsidiary, if such bonds do not exceed in principal amount 75% of the cost of the then unretired physical property of such Railroad Subsidiary (other than Equipment then or at any previous time securing any Equipment Obligation of such Railroad Subsidiary) as evidenced by an Officers' Certificate delivered to the Trustee, or the then fair value thereof as evidenced by an Engineer's Certificate delivered to the Trustee, whichever shall be less; and

(b) Issued after the date such corporation shall have become a Railroad Subsidiary, if such bonds do not exceed in principal amount 75% of the expenditures of such Railroad Subsidiary after said date for net additions to its physical property (other than Equipment then or at any previous time securing any Equipment Obligation) determined in the same manner as Bondable Expenditures but disregarding such adjustments required by the definitions of Gross Expenditures and Bondable Expenditures as are not applicable to said Railroad Subsidiary, all as evidenced by an Officers' Certificate delivered to the Trustee.

(41) "Reserve and Retirement Fund" shall mean the fund created and maintained by the Railroad Company in accordance with the provisions of Article VII.

(42) "Securities" shall mean Debt Securities or Stocks or both.

(43) "Special Securities" shall mean Securities of a corporation or analogous legal entity in which the aggregate cost or investment of the Railroad Company is less than $50,000.

(44) "Stocks" shall mean any proprietary interest in a corporation or other analogous legal entity or certificates evidencing the same.

(45) "Uniform System of Accounts" shall mean (a) the system of accounts for steam railroads prescribed by the Interstate Commerce Commission, and the instructions, interpretations, regulations and orders of the Interstate Commerce Commission thereunder, in effect at the date of the execution and delivery of the Mortgage or as thereafter modified, or (b) any other system of accounts thereafter prescribed by the Interstate Commerce Commission or by any other public regulatory body having similar jurisdiction over the accounts of the Railroad Company, or (c) to the extent not covered by the systems of accounts referred to in clauses (a) and (b) above, any system of accounts that is in accord with sound accounting principles as determined by a certified public accountant selected by the Railroad Company and approved by the Trustee.

ARTICLE II

Description of Bonds

Section 1. The Bonds shall be designated generally as the Railroad Company's "General Mortgage Bonds" and may be issued in one or more series as shall be authorized from time to time in the manner provided in the Mortgage.

The authorized aggregate principal amount of Bonds shall be unlimited, except as may be provided hereinafter and except as may be limited by applicable federal and state laws now or hereafter enacted.

Section 2. The first series of Bonds shall be designated as "Series A" and shall be limited in aggregate principal amount to $57,256,600, and the Bonds of Series A to be issued pursuant to Section 1 of Article III shall:

(a) be designated "General Mortgage 4½% Income Bonds, Series A, due January 1, 2019";

(b) be dated as of January 1, 1944;

(c) mature January 1, 2019, or, if the date of payment be extended in the manner provided in Article XX, on such extended date, unless previously redeemed pursuant to Article IV or declared due and payable pursuant to Article XVII;

(d) bear interest at the rate of 4½% per annum, except as otherwise provided in this clause (d), from January 1, 1945, until the principal sum thereof becomes due and payable as herein provided, and if default be made in the payment of said principal sum when so due and payable, thereafter (to the extent permitted by law) at the highest rate of interest borne by any of the Outstanding Bonds until the Railroad Company's obligation with respect to the payment of said principal sum shall be discharged as provided in the Mortgage; but the interest on such Bonds (i) until said principal sum becomes due

and payable, with respect to each calendar year prior to the calendar year immediately preceding the date of maturity of said Bonds, shall become due as a debt on the last day of each such calendar year and be payable on April 1 of the succeeding calendar year, but only to the extent of Available Net Income applicable to the payment of such interest under the provisions of Section 1 of Article V, (ii) with respect to the calendar year 2018 shall be payable on January 1, 2019, whether or not the Available Net Income is sufficient therefor, (iii) to the extent that the Available Net Income applicable to the payment of such interest for any calendar year prior to the date said principal sum becomes due and payable, shall be less than 4½% of said principal sum, shall accrue and accumulate up to but not exceeding 13½% of said principal sum, but interest for any calendar year that has become due as a debt on the last day of such calendar year shall not be included in the calculation of such accumulation, (iv) to the extent accumulated on said Bonds and remaining unpaid when said principal sum becomes due and payable or when an Event of Default shall occur, shall then be due and payable, (v) shall not bear interest on the accumulations thereof, (vi) in the case of interest due on or before the date the principal sum of coupon Bonds becomes due and payable, shall be payable only upon presentation and surrender of the respective coupons thereto appertaining as they severally mature, and (vii) after said principal sum becomes due and payable, shall not be contingent but shall be fixed until said principal sum is paid;

(e) provide that all interest thereon (including any unpaid accumulations of accrued interest) shall be paid or provision made for the payment thereof before any interest on any other series of Bonds shall be paid or set apart for payment out of Available Net Income;

(f) be payable, both as to principal, premium, if any, and interest, at the office or agency of the Railroad Company in the City of Chicago, State of Illinois, or at the option of the holder or registered owner at the office or

agency of the Railroad Company in the Borough of Manhattan, City and State of New York, 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;

(g) be redeemable before maturity at the option of the Railroad Company upon the terms stated in Article IV;

(h) be issued as coupon Bonds in denominations of $100, $500 and $1,000, and as registered Bonds without coupons in denominations of $1,000, $5,000 and $10,000, and, with the consent of the Railroad Company, such consent as to any particular Bond to be evidenced conclusively by the execution thereof by the officers on behalf of the Railroad Company, in denominations in excess of $10,000; shall be exchangeable as between coupon and registered forms and shall be exchangeable as between authorized denominations (except that, unless otherwise ordered by the Railroad Company for the purpose of effecting distribution of Bonds of Series A pursuant to the Plan, Bonds of the denominations of $100 and $500 shall in each case be exchangeable only for Bonds of the denomination of $1,000, and Bonds of denominations of $1,000 and larger shall not be exchangeable for Bonds of the denominations of $100 or $500); and shall be transferable, and the coupon Bonds shall be registerable as to principal, at the office or agency of the Railroad Company in the City of Chicago, State of Illinois, and in the Borough of Manhattan, City and State of New York, as provided in Section 6 of this Article II;

(i) provide that each registered Bond without coupons of Series A delivered, pursuant to the exercise of any privilege of transfer or exchange, or in substitution, for the whole or any part of one or more other Bonds of Series A shall carry all of the rights to interest which were carried by the whole or such part of such one or more other Bonds of Series A at the time of transfer, exchange or substitution; and, in the case of registered Bonds without coupons of Series A, that as to each such

Bond delivered upon the exercise of any privilege of transfer or exchange or in substitution, as aforesaid, interest shall be deemed to have been paid on said Bond to the extent paid, made available for payment, or under a provision similar to this deemed to have been paid, on an equal principal amount of the Bond or Bonds for which said Bond was transferred, exchanged or substituted.

(j) be entitled to the benefits of the Sinking Funds as provided in Article VIII; and

(k) be substantially in the respective forms of Bonds of Series A recited in the preambles of the Mortgage, and bear such serial numbers as may be approved by the officers executing the same on behalf of the Railroad Company, such approval as to any particular Bond to be evidenced conclusively by the execution thereof by such officers.

SECTION 3. The second series of Bonds shall be designated as "Series B" and shall be limited in aggregate principal amount to $51,422,100, and the Bonds of Series B to be issued pursuant to Section 1 of Article III shall:

(a) be designated "General Mortgage 4½% Convertible Income Bonds, Series B, due January 1, 2044";

(b) be dated as of January 1, 1944;

(c) mature January 1, 2044, or, if the date of payment be extended in the manner provided in Article XX, on such extended date, unless previously redeemed pursuant to Article IV or declared due and payable pursuant to Article XVII or converted pursuant to Article XIII;

(d) bear interest at the rate of 4½% per annum, except as otherwise provided in this clause (d), from January 1, 1945, until the principal sum thereof becomes due and payable as herein provided, and if default be made in the payment of said principal sum when so due and payable, thereafter (to the extent permitted by law) at the

highest rate of interest borne by any of the Outstanding Bonds until the Railroad Company's obligation with respect to the payment of said principal sum shall be discharged as provided in the Mortgage; but the interest on such Bonds (i) until said principal sum becomes due and payable, with respect to each calendar year prior to the calendar year immediately preceding the date of maturity of said Bonds, shall become due as a debt on the last day of each such calendar year and be payable on April 1 of the succeeding calendar year, but only to the extent of Available Net Income applicable to the payment of such interest under the provisions of Section 1 of Article V, (ii) with respect to the calendar year 2043 shall be payable on January 1, 2044, whether or not the Available Net Income is sufficient therefor, (iii) to the extent that the Available Net Income applicable to the payment of such interest for any calendar year prior to the date said principal sum becomes due and payable shall be less than 4½% of said principal sum, shall accrue and accumulate up to but not exceeding 13½% of said principal sum, but interest for any calendar year that has become due as a debt on the last day of such calendar year shall not be included in the calculation of such accumulation, (iv) to the extent accumulated on said Bonds and remaining unpaid when said principal sum becomes due and payable or when an Event of Default shall occur, shall then be due and payable, (v) shall not bear interest on the accumulations thereof, (vi) in the case of interest due on or before the date the principal sum of coupon Bonds becomes due and payable, shall be payable only upon presentation and surrender of the respective coupons thereto appertaining as they severally mature, and (vii) after said principal sum becomes due and payable, shall not be contingent but shall be fixed until said principal sum is paid;

(e) provide that no interest will be payable on Bonds of Series B in any calendar year unless and until there shall have been paid or set apart for payment, out of Available Net Income applicable thereto, all interest and

unpaid accumulations of accrued interest then payable on Bonds of Series A;

(f) be payable, both as to principal, premium, if any, and interest, at the office or agency of the Railroad Company in the City of Chicago, State of Illinois, or at the option of the holder or registered owner at the office or agency of the Railroad Company in the Borough of Manhattan, City and State of New York, 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;

(g) be redeemable before maturity at the option of the Railroad Company upon the terms stated in Article IV;

(h) be issued as coupon Bonds in denominations of $100, $500 and $1,000, and as registered Bonds without coupons in denominations of $1,000, $5,000 and $10,000, and, with the consent of the Railroad Company, such consent as to any particular Bond to be evidenced conclusively by the execution thereof by the officers on behalf of the Railroad Company, in denominations in excess of $10,000; shall be exchangeable as between coupon and registered forms and shall be exchangeable as between authorized denominations (except that, unless otherwise ordered by the Railroad Company for the purpose of effecting distribution of Bonds of Series B pursuant to the Plan, Bonds of the denominations of $100 and $500 shall in each case be exchangeable only for Bonds of the denomination of $1,000, and Bonds of denominations of $1,000 and larger shall not be exchangeable for Bonds of the denominations of $100 or $500); and shall be transferable, and the coupon Bonds shall be registerable as to principal, at the office or agency of the Railroad Company in the City of Chicago, State of Illinois, and in the Borough of Manhattan, City and State of New York, as provided in Section 6 of this Article II;

(i) provide that each registered Bond without coupons of Series B delivered, pursuant to the exercise of any privilege of transfer or exchange, or in substitution, for

the whole or any part of one or more other Bonds of Series B shall carry all of the rights to interest which were carried by the whole or such part of such one or more other Bonds of Series B at the time of transfer, exchange or substitution; and, in the case of registered Bonds without coupons of Series B, that as to each such Bond delivered upon the exercise of any privilege of transfer or exchange or in substitution, as aforesaid, interest shall be deemed to have been paid on said Bond to the extent paid, made available for payment, or under a provision similar to this deemed to have been paid, on an equal principal amount of the Bond or Bonds for which said Bond was transferred, exchanged or substituted;

(j) be entitled to the benefits of the Sinking Funds as provided in Article VIII;

(k) be convertible into shares of common stock of the Railroad Company as provided in Article XIII; and

(l) be substantially in the respective forms of Bonds of Series B recited in the preambles of the Mortgage, and bear such serial numbers as may be approved by the officers executing the same on behalf of the Railroad Company, such approval as to any particular Bond to be evidenced conclusively by the execution thereof by such officers.

SECTION 4. The Bonds of series other than Series A and Series B, and the coupons, if any, appertaining thereto, shall be substantially in the forms hereinbefore recited for the Bonds of Series A and Series B, with such omissions, variations and insertions as may be authorized, permitted or required by the Mortgage and as may be prescribed in the supplemental indenture providing for the creation of such other series.

The Bonds, and the coupons, if any, appertaining thereto, may contain such specifications, descriptive words and re-

citals, and may have such letters, numbers or other marks of identification or designation and such legends or endorsements printed, lithographed or engraved thereon, as the Railroad Company may deem appropriate and as are not inconsistent with the provisions of the Mortgage or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any stock exchange on which the Bonds may be listed or to conform to usage.

The several series of Bonds may differ from the Bonds of Series A and Series B and as between series in respect of any or all of the following matters:

(a) title;

(b) date;

(c) date of maturity (which shall not be earlier than the date of maturity of Bonds of Series B);

(d) interest rate, which shall always be contingent upon the earnings or Available Net Income, if any, of the Railroad Company so long as any Bonds of Series A or Series B remain outstanding;

(e) interest payment dates and the extent to which the Contingent Interest shall be cumulative, but no interest on the Bonds of any series other than Series A and Series B shall be made payable or provision made for setting the same apart out of Available Net Income while there shall remain unpaid any accrued interest (including any accumulations thereof) on Bonds of Series A or Series B;

(f) place or places for the payment of principal and for the payment of interest;

(g) whether issuable as registered Bonds without coupons, or as coupon Bonds with or without the privilege of registration as to principal, or both, and the respective denominations of each and the place or places, if

any, and the procedure for registration as to principal of coupon Bonds and for registration and transfer of registered Bonds without coupons;

(h) provisions, if any, for exchanges of coupon Bonds of all or specified denominations for registered Bonds without coupons, of registered Bonds without coupons of all or specified denominations for coupon Bonds, of coupon Bonds for coupon Bonds of other denominations, and of registered Bonds without coupons for registered Bonds without coupons of other denominations, and the place or places for such exchanges;

(i) limitations, if any, upon the aggregate principal amount of Bonds of the series which may be issued;

(j) provisions, if any, for the payment of principal or interest, or both, without deduction for taxes, or for reimbursement of taxes in case of payment thereof by the holders;

(k) provisions, if any, for exchangeability of Bonds of one series for Bonds of another series;

(l) provisions, if any, with regard to any obligation of the Railroad Company to permit the conversion of Bonds of any series into stock or other securities of the Railroad Company;

(m) provisions, if any, reserving to the Railroad Company the right to redeem all or any part of the Bonds of any series before maturity;

(n) provisions, if any, for any sinking fund with respect to the Bonds of any series and the priority thereof over the Bonds of any series except Bonds of Series A and Series B; and

(o) any other provisions not in conflict with the provisions of the Mortgage.

In authorizing the issue of any series of Bonds (other than Bonds of Series A and Series B), all matters in respect of the Bonds of such series set forth in clauses (a) to (g), inclusive,

of this Section 4, and the form of the Bonds and coupons, if any, of such series, shall be determined and specified, and any and all matters permitted by clauses (h) to (o), inclusive, of this Section 4 may be determined and specified, in the supplemental indenture providing for the creation of such series.

Bonds of any particular series shall be identical except that they may be of different numbers, of different denominations, in the form of coupon Bonds or registered Bonds without coupons, and may have serial maturities, in which case the several maturities may differ with respect to redemption price and interest rate.

SECTION 5. The Bonds shall be signed on behalf of the Railroad Company by its President or a Vice President, and its corporate seal shall be affixed thereto and attested by its Secretary or an Assistant Secretary. Only such Bonds as shall bear thereon a certificate of authentication executed by the Trustee substantially in the form hereinbefore recited shall be secured by the Mortgage or be entitled to any right or benefit hereunder; and no Bond and no coupon thereunto appertaining shall be or become valid or obligatory for any purpose until such certificate shall have been duly executed on such Bond. Such certificate executed by the Trustee upon any Bond executed by the Railroad Company shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered hereunder and is one of the Bonds described in the Mortgage. The Trustee shall not authenticate or deliver any coupon Bond until all matured coupons thereunto appertaining shall have been detached and cancelled, except as otherwise provided in Section 6 or Section 8 of this Article II.

In case any person who, as an officer of the Railroad Company, shall have signed any of the Bonds or attested the seal

thereon shall cease to be such officer before the Bonds so signed or sealed shall have been authenticated and delivered by the Trustee or disposed of by the Railroad Company, such Bonds, nevertheless, may be authenticated, delivered and disposed of as though the person had not ceased to be such officer; and any Bond may be signed on behalf of the Railroad Company and the seal of the Railroad Company may be attested by such persons as, at the actual date of the execution of the Bond, shall be the proper officers of the Railroad Company, although at the nominal date of such Bond any such person was not such officer.

The coupons attached to coupon Bonds shall bear the facsimile signature of the present Treasurer or of any future Treasurer of the Railroad Company, and for that purpose the Railroad Company may use the facsimile signature of any person who shall have been such Treasurer, notwithstanding the fact that at the time when such coupon Bonds shall be authenticated and delivered or disposed of he shall have ceased to be the Treasurer of the Railroad Company.

SECTION 6. In all cases in which the privilege of exchanging Bonds of any series exists and is exercised, the Bonds to be exchanged shall be surrendered at any office or agency maintained by the Railroad Company in accordance with the provisions of Section 2 of Article IX with respect to the Bonds of such series, and the Railroad Company shall execute and the Trustee shall authenticate and deliver in exchange therefor the Bond or Bonds which the holder making the exchange shall be entitled to receive. All coupon Bonds surrendered for exchange and delivered in exchange shall have attached thereto all unmatured coupons appertaining thereto and, in case at the time of any such exchange interest on the Bonds of the particular series is in default, shall in addition have attached thereto all matured coupons in default.

The Railroad Company shall keep, at the offices or agencies to be maintained by the Railroad Company in accordance with the provisions of Section 2 of Article IX, a register or registers in which, subject to such reasonable regulations as it may prescribe, the Railroad Company shall register Bonds entitled to registration and shall transfer registered Bonds. At all reasonable times such register or registers shall be open for inspection by the Trustee and, upon demand by holders of at least 10% in aggregate principal amount of Outstanding Bonds, by such holders.

Upon surrender for transfer of any registered Bond without coupons of any series at any office or agency maintained with respect to the Bonds of such series, the Railroad Company shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new registered Bond or Bonds without coupons of the same series and maturity for a like aggregate principal amount.

Upon presentation for registration of any coupon Bond registerable as to principal at any such office or agency, such Bond shall be registered as to principal in the name of the holder and the fact of such registration shall be noted on the Bond. No transfer of any coupon Bond so registered as to principal shall be valid unless made at any such office or agency and similarly noted on the Bond, but the same may be discharged from registration by being in like manner transferred to bearer, and thereupon transferability by delivery shall be restored. Coupon Bonds entitled to registration shall continue to be subject to successive registrations and transfers to bearer, at the option of the holders. Such registration of any coupon Bond shall not affect the negotiability of the coupons appertaining thereto, which shall continue to be payable to bearer and transferable by delivery.

All Bonds presented or surrendered for exchange, transfer,

registration or discharge from registration as provided in this Section 6 shall be in bearer form or, if registered, shall be accompanied by a written instrument or instruments of transfer in form approved by the Railroad Company duly executed by the registered holder or his legal representative, either in person or by duly authorized attorney.

Upon every exchange, transfer, registration or discharge from registration of Bonds the Railroad Company may require the payment of a sum sufficient to cover any tax or taxes or other governmental charge and in addition thereto a further sum not exceeding $2.00 for each new Bond then issued, except as otherwise provided in Section 7 of this Article II, in Section 3 of Article IV and in Section 6 of Article XX.

The Railroad Company shall not be required to make transfers or exchanges of registered Bonds without coupons of any series for a period of 10 days next preceding any interest payment date of the Bonds of such series or next preceding any selection by lot of Bonds to be redeemed. The Railroad Company shall not be required to make transfers or exchanges of any Bonds selected for redemption.

If one or more Events of Default shall have occurred and be continuing, nevertheless the Railroad Company shall duly execute and the Trustee shall authenticate and deliver Bonds for the purposes of making the exchanges and transfers provided for in this Section 6.

SECTION 7. Pending the preparation of definitive Bonds of any series, the Railroad Company may execute and the Trustee shall authenticate and deliver one or more temporary Bonds (printed or lithographed) of such series with or without one or more coupons and of any denomination or denominations, in bearer form, registerable or not register-

able as to principal, or in registered form, which shall be substantially in the form of the definitive Bonds of such series, but with any omissions, insertions and variations appropriate for temporary Bonds, all as authorized by the Board of Directors and as provided in the written order of the Railroad Company for the authentication and delivery thereof. Every such temporary Bond shall be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Bonds. When definitive Bonds of any series are prepared and ready for delivery, the temporary Bonds of such series may be surrendered in exchange therefor, and the Trustee shall authenticate and deliver in exchange therefor, without expense to the holder, an equal aggregate principal amount of definitive Bonds of the same series and maturity. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefit and security of the Mortgage as definitive Bonds authenticated and delivered hereunder. Interest when and as payable upon temporary Bonds without coupons in bearer form and not registered as to principal shall be paid only upon presentation thereof for notation thereon of such payment.

When temporary Bonds of any series are authenticated and delivered, the Railroad Company will cause definitive Bonds of such series to be prepared without unnecessary delay.

SECTION 8. In case any temporary or definitive Bond and any coupons appertaining thereto shall become mutilated or be destroyed, lost or stolen, the Railroad Company in its discretion may execute, and upon the written request of the Railroad Company, signed by its President or a Vice President, the Trustee may authenticate and deliver, a new Bond

(with coupons corresponding to the coupons, if any, appertaining to the mutilated, destroyed, lost or stolen Bond) of the same series and maturity and of like tenor, in exchange and substitution for the mutilated Bond and its coupons, if any, or in lieu of and substitution for the Bond and its coupons, if any, so destroyed, lost or stolen, or, if any such Bond or any coupon shall have matured or shall be about to mature or shall have been called for redemption, instead of issuing a substituted Bond or coupon the Railroad Company may pay the same without surrender thereof. In case of destruction, loss or theft of any Bond or coupon, the applicant for a substituted Bond or for such payment shall furnish to the Railroad Company, to the Trustee and to any paying agent of the Railroad Company, in their discretion, evidence to their satisfaction of the destruction, loss or theft of such Bond and its coupons, if any, and of the ownership thereof, and also such security or indemnity as may be required by the Railroad Company, the Trustee and such paying agent to save each of them harmless. The Trustee may authenticate any such substituted Bond and deliver the same with appurtenant coupons, if any, or the Trustee or any paying agent of the Railroad Company may make any such payment, upon the written request or authorization of the Railroad Company, signed by its President or a Vice President, and shall incur no liability to anyone by reason of anything done or omitted to be done by it in good faith under the provisions of this Section 8. Upon the issue of any substituted Bond, the Railroad Company may require the payment of a sum sufficient to cover any tax or taxes or other governmental charge and any other expense connected therewith, and also of a further sum not exceeding $2.00 for each Bond so issued in substitution.

Notwithstanding any limitations contained in the Mortgage, any Bonds and coupons issued under the provisions of this

Section 8 shall constitute original contractual obligations, in accordance with their terms, on the part of the Railroad Company, and shall be equally and proportionately entitled to the benefit and security of the Mortgage with all other Bonds and coupons issued under the Mortgage, in accordance with the terms thereof.

SECTION 9. Except as otherwise provided in the Mortgage, all Bonds (and appurtenant coupons, if any) surrendered for the purpose of payment, redemption, exchange or transfer shall either be surrendered to the Railroad Company or any paying agent and by it delivered to the Trustee, or be surrendered to the Trustee, and shall be cancelled by the Trustee as and when so delivered or surrendered to it, and no Bonds or appurtenant coupons shall be issued under the Mortgage in lieu of Bonds or appurtenant coupons so surrendered except as expressly permitted by any of the provisions of the Mortgage. All coupons surrendered to the Railroad Company or any paying agent for the purpose of payment shall be cancelled and delivered to the Trustee.

The Trustee shall make appropriate notations in its records in respect of all Bonds and appurtenant coupons cancelled by it as aforesaid, shall cremate all such cancelled coupon Bonds not registered as to principal and all cancelled coupons, and may, in its discretion, cremate all such cancelled coupon Bonds registered as to principal and registered Bonds without coupons, and shall deliver a certificate of any such cremation to the Railroad Company.

If the Railroad Company shall acquire any of the Bonds otherwise than as aforesaid, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Bonds unless and until the same are surrendered to the Trustee for cancellation.

ARTICLE III

ISSUANCE OF BONDS

SECTION 1. Upon the execution and delivery of the Mortgage, and whether before or after the recording of the Mortgage, Bonds of Series A in the aggregate principal amount of Fifty-seven Million Two Hundred Fifty-six Thousand Six Hundred Dollars ($57,256,600), and Bonds of Series B in the aggregate principal amount of Fifty-one Million Four Hundred Twenty-two Thousand One Hundred Dollars ($51,422,100), may be executed by the Railroad Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Railroad Company, signed by its President or a Vice President, without any further action on the part of the Railroad Company.

No Bonds other than those authenticated and delivered pursuant to this Section 1 shall be authenticated or delivered by the Trustee pursuant to the provisions of this Article III at any time when an Event of Default shall have occurred and be continuing or when there are unpaid accumulations of accrued interest on the Outstanding Bonds of any series.

SECTION 2. From time to time and in the manner provided in this Section 2, Bonds of one or more series other than Series A and Series B may be executed by the Railroad Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Railroad Company, signed by its President or a Vice President, in an aggregate principal amount not exceeding 75% of the Bondable Expenditures during a period beginning January 1, 1944, and ending not more than 90 days prior to the date of the Application for the authentication of such Bonds, provided, however, that no Bonds shall be authenticated and delivered on the basis

of Bondable Expenditures which have theretofore been Bonded, or in a principal amount which, when added to the amount of expenditures from the Additions and Betterments Fund and the Reserve and Retirement Fund for or on account of the Gross Expenditures during such period, would exceed the Bondable Expenditures during such period, all as shown by the Officers' Certificate relating to the authentication and delivery of such Bonds.

Bonds shall be authenticated and delivered under this Section 2 upon delivery to the Trustee in each case of:

(a) An Application for the authentication of Bonds under this Section 2, stating the principal amount of Bonds the authentication of which is applied for;

(b) The documents specified in Section 8 of this Article III;

(c) An Officers' Certificate, dated not more than 30 days prior to the delivery thereof, stating:

(1) In the case of the first such Certificate, the Cost of Additions and Betterments, a computation showing the deductions required by the definitions of Gross Expenditures and Bondable Expenditures in Article I and the amount of Bondable Expenditures for the period beginning January 1, 1944, and ending not more than 90 days prior to the delivery of the Certificate to the Trustee;

(2) In the case of each subsequent Certificate, the Cost of Additions and Betterments, a computation showing the deductions required by the definitions of Gross Expenditures and Bondable Expenditures in Article I and the amount of Bondable Expenditures for the period beginning with the close of the period covered by the last previous Certificate delivered to the Trustee pursuant to this subsection (c) and ending not more than 90 days prior to the delivery of the Certificate to the Trustee, and the balance of the Bondable Expenditures at the be-

ginning and at the close of the period covered by the Certificate;

(3) The amount of expenditures that have theretofore been made from the Additions and Betterments Fund and from the Reserve and Retirement Fund for or on account of Gross Expenditures;

(4) A computation showing the principal amount of Bonds that could be authenticated and delivered on the basis of the Application;

(5) A description of all property constituting Additions and Betterments acquired or constructed during the period covered by the Certificate in such reasonable detail as shall be sufficient to permit identification thereof or a statement of the amounts thereof by primary accounts according to the Uniform System of Accounts;

(6) With respect to any new Equipment described therein, the date or dates upon which each item of such Equipment was acquired by the Railroad Company or upon which construction by the Railroad Company was completed and the Cost of Additions and Betterments for the acquisition or construction thereof;

(7) If any of such Additions and Betterments are located on any leasehold, the date of expiration of the term of such lease and the Cost of the Additions and Betterments which the Railroad Company has the right to remove or to be reimbursed for upon the termination of the lease; and

(8) If any of such Additions and Betterments are subject to any Prior Lien, a computation showing that the inclusion thereof in the Application will not result in a violation of the covenant in respect of Additions and Betterments subject to Prior Liens in Section 13 of Article IX, and a description of any Prior Lien not described in any previous Certificate;

(d) All such deeds, supplemental indentures or instruments of further assurance, if any, as in the Opinion of Counsel furnished pursuant to clause (e) below may be specified as necessary or advisable to subject to the lien of the Mortgage the property included in the Additions and Betterments shown in the Officers' Certificate required by clause (c) above, or, in the case of Additions and Betterments located on leaseholds, to subject such leaseholds to such lien;

(e) An Opinion of Counsel (i) that all property included in the Additions and Betterments shown in the Officers' Certificate required by clause (c) above, except such as is located on leaseholds, is subject to the lien of the First Mortgage (so long as it remains a lien on the mortgaged property) and to the lien of the Mortgage or will become subject to such liens upon the delivery and recording or filing of the deeds, supplemental indentures or instruments of further assurance, if any, specified in said Opinion of Counsel, subject to no defect in title and subject to no lien thereon prior or equal to the lien of the Mortgage except the First Mortgage and liens securing Prior Lien Bonds, if any, and Permitted Encumbrances, if any, and (ii) if any such property is located on any leasehold, as shown by the Officers' Certificate, that such leasehold (except the last day of the term thereof) is subject to the lien of the First Mortgage (so long as it remains a lien on the mortgaged property) and to the lien of the Mortgage, or will become subject to such liens upon the delivery and recording or filing of the deeds, supplemental indentures or instruments of further assurance, if any, specified in said Opinion of Counsel, and extends for a period of time not less than 10 years beyond the latest maturity date of any Bonds or First Mortgage Bonds outstanding or for the authentication and delivery of which application is being made, or that, under the terms of such leasehold, the Railroad Company has the right to be reimbursed in respect of the expenditures for such property or the right to remove the property upon the termination thereof; provided that

such Opinion of Counsel may recite that it is based upon certificates or opinions of officers or engineers of the Railroad Company as to any factual matters not of public record; and

(f) If it shall appear from the Officers' Certificate required by clause (c) above that any Equipment is included in the Additions and Betterments then being made the basis for the authentication and delivery of Bonds, a certificate of an engineer (who shall be appointed by the Board of Directors and satisfactory to the Trustee and who may be an officer or employee of the Railroad Company) establishing the estimated service life of such Equipment, and a supplemental indenture establishing a sinking fund meeting the requirements specified in Section 2 of Article VIII.

For the purposes of this Section 2 and of Section 3 of Article VIII, whenever new Equipment is included in the Additions and Betterments then being made the basis for the authentication and delivery of Bonds, it shall be presumed that such Bonds are issued on the basis of such Equipment to the extent of the Cost of Additions and Betterments for the acquisition or construction of new Equipment as stated in the Officers' Certificate then delivered to the Trustee pursuant to the requirements of clause (c) of this Section 2.

SECTION 3. From time to time and in the manner provided in this Section 3, Bonds of one or more series other than Series A and Series B may be executed by the Railroad Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Railroad Company, signed by its President or a Vice President, upon the deposit by the Railroad Company with the Trustee of a sum in cash equal to the principal amount of the Bonds so to be authenticated and delivered and upon delivery by the Railroad Company to the Trustee of (a) an Application for the authentication of Bonds under this Section 3, stating the principal

amount of Bonds the authentication of which is applied for, (b) the documents specified in Section 8 of this Article III, and (c) an Officers' Certificate dated not more than 30 days prior to the delivery thereof to the Trustee which shall certify that any cash so deposited with the Trustee is not otherwise required to be deposited with the Trustee or is not otherwise required to be used under any provision of the Mortgage or of the First Mortgage.

All cash so deposited (herein sometimes referred to as "escrowed cash") shall be held by the Trustee as part of the mortgaged property and may be withdrawn by the Railroad Company upon its written order, signed by its President or a Vice President, accompanied by an Application therefor and a Certified Resolution authorizing such Application, in an amount equal to the principal amount of each Bond or fraction of a Bond to the authentication and delivery of which the Railroad Company would be entitled under the provisions of Sections 2, 4, 5, 6 or 7 of this Article III. Upon applying for any such withdrawal, the Railroad Company shall comply with all applicable provisions of this Article III relating to the authentication and delivery of such Bonds except that the Railroad Company shall not be required to comply with any of the provisions of Section 8 of this Article III other than clause (d) (iv) (with such changes as shall be appropriate to the withdrawal of escrowed cash) and clause (e) of said Section 8. Any withdrawal of escrowed cash under this Section 3 shall be in lieu of the right of the Railroad Company to the authentication and delivery of Bonds to which the Railroad Company would otherwise be entitled under the provisions of Sections 2, 4, 5, 6 or 7 of this Article III.

The Railroad Company shall not be entitled to withdraw any escrowed cash pursuant to the provisions of this Section 3 at any time when an Event of Default shall have occurred and be continuing.

Whenever and so long as the amount of escrowed cash at any time held by the Trustee and not withdrawn by the Railroad Company under the provisions of this Section 3 shall exceed $10,000,000, no Bonds shall be issued by the Railroad Company or authenticated by the Trustee under the provisions of this Section 3.

SECTION 4. From time to time and in the manner provided in this Section 4, Bonds of one or more series other than Series A and Series B may be executed by the Railroad Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Railroad Company, signed by its President or a Vice President, in an aggregate principal amount not exceeding the principal amount of Bonds of any other series or First Mortgage Bonds which shall have been cancelled or surrendered to the Trustee for cancellation, or for the payment or redemption of which moneys in the necessary amount shall have been irrevocably deposited in trust with the Trustee; provided, however, (1) that no Bonds shall be authenticated and delivered under this Section 4 on the basis of Bonds of any other series or First Mortgage Bonds theretofore Bonded, or theretofore acquired, retired, cancelled or paid by means of expenditures from the Reserve and Retirement Fund or through the operation of any sinking fund or analogous fund established pursuant to the Mortgage or pursuant to the First Mortgage, and (2) that in case of the redemption of Bonds of any other series or First Mortgage Bonds all action and notice required for such redemption shall have been taken and given, or provision made therefor satisfactory to the Trustee.

Bonds shall be authenticated and delivered under this Section 4 upon delivery to the Trustee in each case of:

(a) An Application for the authentication of Bonds

under this Section 4, stating the principal amount of Bonds the authentication of which is applied for;

(b) The documents specified in Section 8 of this Article III;

(c) An Officers' Certificate dated not more than 30 days prior to the delivery thereof which shall (i) describe and state the amount of Bonds or First Mortgage Bonds the cancellation or surrender for cancellation or the payment or redemption of which forms the basis of the Application; (ii) state that said Bonds or First Mortgage Bonds have not theretofore been Bonded and have not theretofore been acquired, retired, cancelled or paid by means of expenditures from the Reserve and Retirement Fund or through the operation of any sinking fund or analogous fund established pursuant to the Mortgage or pursuant to the First Mortgage; and (iii) certify that any moneys deposited in trust as required by paragraph (d) of this Section 4 are not otherwise required to be deposited with the Trustee or are not otherwise required to be used under any provision of the Mortgage or of the First Mortgage; and

(d) Either (i) said Bonds of such prior series or First Mortgage Bonds, cancelled or for cancellation, which form the basis of the Application, together with all unmatured coupons and all unpaid matured coupons appertaining thereto, if any, funds for the payment of which have not been provided, or (ii) moneys in trust in the necessary amount for the payment or redemption thereof, and (iii) in case of such redemption, evidence that due notice of redemption has been given or has been provided for, to the satisfaction of the Trustee.

So long as the First Mortgage shall remain a lien on the mortgaged property, the requirements of this Section 4 with respect to the delivery of First Mortgage Bonds or moneys for the payment or redemption thereof to the Trustee shall be deemed to be satisfied by the delivery thereof to the trustee under the First Mortgage subject to the terms there-

of, instead of with the Trustee, and the filing with the Trustee of a statement of the trustee under the First Mortgage certifying that such delivery has been made to it.

Bonds of any other series made the basis for the authentication and delivery of Bonds under this Section 4, together with all coupons appertaining thereto, if not then cancelled, shall be cancelled by the Trustee and shall not thereafter be made the basis for the authentication and delivery of any Bonds, the release of any property, the withdrawal, payment or application of any cash held by the Trustee or otherwise used under any provision of the Mortgage.

SECTION 5. From time to time and in the manner provided in this Section 5, Bonds of one or more series other than Series A and Series B may be executed by the Railroad Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Railroad Company, signed by its President or a Vice President, in an aggregate principal amount not exceeding the principal amount of any Outstanding Prior Lien Bonds not theretofore Bonded which shall have been pledged and deposited with the Trustee uncancelled; provided, however, that no Prior Lien Bonds shall be made the basis for the authentication and delivery of Bonds under this Section 5 unless the deductions from Gross Expenditures required by clause (d) or clause (f) of the definition of Bondable Expenditures have theretofore been made in determining Bondable Expenditures which have become Bonded.

Bonds shall be authenticated and delivered under this Section 5 upon the delivery to the Trustee in each case of:

(a) An Application for the authentication of Bonds under this Section 5, stating the principal amount of Bonds the authentication of which is applied for;

(b) The documents specified in Section 8 of this Article III;

(c) An Officers' Certificate dated not more than 30 days prior to the delivery thereof which shall (i) describe and state the amount of the Outstanding Prior Lien Bonds the pledge and deposit of which with the Trustee forms the basis of the Application, (ii) state that said Prior Lien Bonds are Outstanding Prior Lien Bonds and have not theretofore been Bonded, and (iii) state that the deductions from Gross Expenditures required by either clause (d) or clause (f) of the definition of Bondable Expenditures have theretofore been made in determining Bondable Expenditures that have become Bonded;

(d) Said Prior Lien Bonds uncancelled which form the basis of the Application, together with all unmatured coupons and all unpaid matured coupons appertaining thereto, if any; and

(e) An Opinion of Counsel that all Prior Lien Bonds required to be pledged with the Trustee by Clause (d) above are subject to the lien of the Mortgage or will become subject to such lien upon delivery thereof or delivery of the instruments, if any, specified in said Opinion of Counsel; and that the Railroad Company has valid title to such Prior Lien Bonds and the right to own and pledge the same free from any other lien.

Prior Lien Bonds made the basis for the authentication and delivery of Bonds under this Section 5, together with all coupons appertaining thereto, shall be held by the Trustee uncancelled and without extinguishment or impairment of the Prior Lien securing the same, except as effected as a matter of law by the acquisition thereof by the Railroad Company, and shall not thereafter be made the basis for the authentication and delivery of any Bonds, the release of any property, the withdrawal, payment or application of any cash held by the Trustee or otherwise used under any provision of the Mortgage; provided, however, that the Trustee, at the request of the Railroad Company, shall deliver any such Prior Lien Bonds to the trustee under the mortgage, deed of trust or other instrument under which the same may

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have been issued or which may secure the same for the purpose of obtaining the release, satisfaction and discharge of such mortgage, deed of trust or other instrument if it is furnished with an Opinion of Counsel that the property on which such mortgage, deed of trust or other instrument constitutes a lien is owned by the Railroad Company and is subject to the lien of the Mortgage, and that there is no other lien on such property, except the First Mortgage and Permitted Encumbrances, which is prior to the lien of the Mortgage.

So long as the First Mortgage shall remain a lien on the mortgaged property, the requirements of this Section 5 with respect to the pledge and deposit with the Trustee of Prior Lien Bonds made the basis for the authentication and delivery of Bonds shall be deemed to be satisfied by the pledge and deposit thereof with the trustee under the First Mortgage subject to the terms thereof, instead of with the Trustee, and the filing with the Trustee of a statement of the trustee under the First Mortgage certifying to such pledge and deposit.

SECTION 6. From time to time and in the manner provided in this Section 6, Bonds of one or more series other than Series A and Series B may be executed by the Railroad Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Railroad Company, signed by its President or a Vice President, for or on account of the pledge with the Trustee of any Railroad Subsidiary Bonds not theretofore Bonded, to the extent only of the principal amount of such Railroad Subsidiary Bonds.

Bonds shall be authenticated and delivered under this Section 6 upon the delivery to the Trustee in each case of:

(a) An Application for the authentication of Bonds under this Section 6, stating the principal amount of Bonds the authentication of which is applied for;

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(b) The documents specified in Section 8 of this Article III;

(c) An Officers' Certificate dated not more than 30 days prior to the delivery thereof, which shall:

(1) Name the corporation the bonds of which have been or are to be pledged with the Trustee, and state that such corporation is a Railroad Subsidiary;

(2) State the amount of all Railroad Subsidiary Bonds of such Railroad Subsidiary then outstanding and the amount thereof which were outstanding as of the date such corporation shall have become a Railroad Subsidiary, and state separately the amount thereof theretofore pledged with the Trustee and the amount thereof proposed to be pledged concurrently with the Trustee;

(3) State the amount of all Railroad Subsidiary Bonds issued by such Railroad Subsidiary after the date it shall have become a Railroad Subsidiary and state separately the amount thereof theretofore pledged with the Trustee and the amount thereof proposed to be pledged concurrently with the Trustee;

(4) Furnish a computation showing that the Railroad Subsidiary Bonds referred to in the Application meet the requirements of the definition of Railroad Subsidiary Bonds in Article I; and

(5) State that the Railroad Subsidiary Bonds to the extent proposed to be made the basis for the issue of Bonds under the Application have not theretofore been Bonded;

(d) If the Railroad Subsidiary Bonds made the basis for the issue of Bonds under the Application were issued prior to, and outstanding upon, the date the corporation named in the Application became a Railroad Subsidiary, an Engineer's Certificate stating the fair value on said date of the then unretired physical property of such Railroad Subsidiary (other than Equipment then or at any previous time securing any Equipment Obligation of such Railroad Subsidiary);

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(e) All Railroad Subsidiary Bonds proposed to be pledged with the Trustee under the Application; and all such instruments, if any, as in the Opinion of Counsel furnished pursuant to clause (g) below may be stated to be necessary or advisable to subject such securities to the lien of the First Mortgage (so long as it shall remain a lien on the mortgaged property) and to the lien of the Mortgage;

(f) Unless previously filed in connection with the pledge of bonds of such Railroad Subsidiary under the Mortgage, an agreement between the Railroad Company, the Trustee and such Railroad Subsidiary whereby the latter is obligated not to increase the amount of its other indebtedness secured by lien equal in rank to the lien of its bonds at any time pledged under the Mortgage, or to incur or assume any indebtedness secured by lien (other than Permitted Encumbrances and the prior right, charge, lien or title of its Equipment Obligations) ranking prior to the lien of its bonds at any time so pledged;

(g) An Opinion of Counsel that all Railroad Subsidiary Bonds of each Railroad Subsidiary required to be pledged with the Trustee by clause (e) above are subject to the lien of the First Mortgage (so long as it shall remain a lien on the mortgaged property) and to the lien of the Mortgage or will become subject to such liens upon delivery thereof or delivery of the instruments, if any, specified in said Opinion of Counsel; that the Railroad Company has valid title to such securities and the right to own and pledge the same, free from any other lien; that such Railroad Subsidiary Bonds and the agreements required under clause (f) above have been duly authorized by all corporate authority required under the laws of the state of incorporation, the charter (or other document of organization) and the by-laws of the Railroad Subsidiary obligated thereby; that no authorization

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by any commission or governmental authority is required by law for the issue of such securities or for the valid ownership thereof by the Railroad Company or the pledge thereof as provided in this Section 6, except such authorizations as shall be specified in said Opinion of Counsel, and which shall be evidenced by copies of the orders or certificates so specified, appropriately certified; that the said Railroad Subsidiary Bonds of each such Railroad Subsidiary are valid obligations thereof and are secured by a valid general lien on all or substantially all of the physical property of such subsidiary, subject only to Permitted Encumbrances and the prior right, charge, lien or title of Equipment Obligations of such Subsidiary; and that each agreement referred to in clause (f) of this Section 6 is a valid and enforceable obligation of the Railroad Subsidiary making the same; and

(h) A Certified Resolution to the effect that each Railroad Subsidiary referred to in the Application owns one or more lines of railroad, bridges or railroad terminals connected directly, or by leasehold rights, trackage rights, or other similar operating rights, with the lines of railroad owned by the Railroad Company, which are necessary or useful in connection with the operation of the Railroad Company's system.

So long as the First Mortgage shall remain a lien on the mortgaged property, the requirements of this Section 6 with respect to the pledge and deposit with the Trustee of Railroad Subsidiary Bonds shall be deemed to be satisfied by the pledge and deposit thereof with the trustee under the First Mortgage subject to the terms thereof, instead of with the Trustee, and the filing with the Trustee of a statement of the trustee under the First Mortgage certifying to such pledge and deposit.

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SECTION 7. From time to time and in the manner provided in this Section 7, Bonds of one or more series other than Series A and Series B, in an aggregate principal amount not exceeding $3,000,000 at any time outstanding, may be executed by the Railroad Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Railroad Company, signed by its President or a Vice President, for or on account of the pledge with the Trustee of any Investment Securities not theretofore Bonded, but only in an aggregate principal amount not exceeding 75% of the expenditures made by the Railroad Company after the date of the execution and delivery of the Mortgage, as shown by its accounts, for the acquisition of such Securities.

If at any time or from time to time the proceeds from the sale of Investment Securities under Section 12 of Article X have been withdrawn or applied, pursuant to clause (c) or clause (d) of Section 7 of Article XI, then the aggregate principal amount of Bonds which shall have been authenticated, delivered and outstanding under this Section 7 shall be deemed to have been reduced by an amount equal to the principal amount of Bonds so surrendered or redeemed pursuant to said clauses of Section 7 of Article XI.

Bonds shall be authenticated and delivered under this Section 7 upon delivery to the Trustee in each case of:

(a) An Application for the authentication of Bonds under this Section 7, stating the principal amount of Bonds the authentication of which is applied for;

(b) The documents specified in Section 8 of this Article III.

(c) An Officers' Certificate dated not more than 30 days prior to the delivery thereof, which shall:

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(1) State the name of the corporation issuing such securities and state that such securities are Investment Securities as defined in the Mortgage;

(2) State the amount of the expenditures made by the Railroad Company as shown by its accounts for the acquisition of such Investment Securities; and a computation of the amount of Bonds to the authentication of which the Railroad Company shall be entitled under the provisions of this Section 7; and

(3) State that the Investment Securities to the extent proposed to be made the basis for the issuance of Bonds under the application are not then Bonded;

(d) All Investment Securities proposed to be pledged with the Trustee under the Application; and all such instruments, if any, as in the Opinion of Counsel furnished pursuant to clause (e) below are stated to be necessary or advisable to subject such Investment Securities to the lien of the First Mortgage (so long as it shall remain a lien on the mortgaged property) and to the lien of the Mortgage; and

(e) An Opinion of Counsel that all Investment Securities required to be pledged by the Trustee pursuant to clause (d) above are subject to the lien of the First Mortgage (so long as it shall remain a lien on the mortgaged property) and to the lien of the Mortgage or will become subject to such liens upon delivery thereof or upon the delivery of the instruments, if any, specified in said Opinion of Counsel; that the Railroad Company has valid title to such Investment Securities and the right to own and pledge the same, free from any other lien; that all Stocks included in such Investment Securities are validly issued and fully paid and nonassessable; that all Debt Securities included in such Investment Securities have been duly authorized by all corporate authority required under the laws of the state of incorporation, the charter (or other document of organization) and the by-laws

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of the corporation issuing the same; and that no authorization by any commission or governmental authority is required by law for the issuance of such securities or for the valid ownership thereof by the Railroad Company or the pledge thereof as provided in this Section 7, except such authorizations as shall be specified in such opinion and which shall be evidenced by appropriately certified copies of the orders or certificates so specified.

So long as the First Mortgage shall remain a lien on the mortgaged property, the requirements of this Section 7 with respect to the pledge and deposit with the Trustee of Investment Securities shall be deemed to be satisfied by the pledge and deposit thereof with the trustee under the First Mortgage subject to the terms thereof, instead of with the Trustee, and the filing with the Trustee of a statement of the trustee under the First Mortgage certifying to such pledge and deposit.

SECTION 8. Whenever applying for the authentication of any Bonds, other than Bonds of Series A and Series B, under the provisions of this Article III, the Railroad Company shall cause to be delivered to the Trustee:

(a) A Certified Resolution authorizing the proposed issue of Bonds in a specified principal amount pursuant to a specified section or sections of this Article III, requesting the authentication and delivery thereof and either (i) stating that such Bonds are of a designated series previously authorized, or (ii) authorizing the execution and delivery of the supplemental indenture provided for in clause (b) of this Section 8, which Certified Resolution shall have been adopted by the affirmative action of not less than two-thirds of the whole Board of Directors;

(b) If such Bonds are to be of a series not previously authorized, a supplemental indenture duly creating the

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proposed series and specifying as provided in Section 4 of Article II the particular provisions of the Bonds of such series;

(c) A copy authenticated in a manner satisfactory to the Trustee of any orders or certificates of any commissions or public regulatory bodies or other governmental authorities shown by the Opinion of Counsel referred to in clause (d) of this Section 8 to be required by law for the issue of such Bonds;

(d) An Opinion of Counsel that

(1) no authorization or approval by any commission or public regulatory body or other governmental authority is required by law for the issue of such Bonds except such authorizations as are specified in such Opinion;

(2) the Railroad Company is entitled by law and by the terms of the Mortgage to the authentication and delivery of such Bonds;

(3) the authentication and delivery of such Bonds has been duly authorized by all requisite corporate action on the part of the Railroad Company;

(4) the Applications, certificates, orders and other documents delivered to the Trustee conform to the requirements of the Mortgage and constitute sufficient authority hereunder for the Trustee to authenticate and deliver such Bonds; and

(5) such Bonds when duly executed, authenticated and delivered and issued for consideration will constitute valid and outstanding obligations of the Railroad Company according to their terms and will be secured by the Mortgage in accordance with its terms; and

(e) An Officers' Certificate stating that no Event of Default has occurred and is continuing, and that there are no unpaid accumulations of accrued interest on the Outstanding Bonds of any series.

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ARTICLE IV

Redemption of Bonds

Section 1. The Railroad Company, at its option, may redeem the Bonds of Series A as a whole at any time or in part from time to time, or the Bonds of Series B as a whole at any time or in part from time to time, at a redemption price equal to the principal amount thereof plus all unpaid interest thereon that has become due as a debt for prior years, all unpaid accumulations of accrued interest thereon for prior years, interest thereon from January 1 of the then current year to the date fixed for redemption calculated at the rate of 4½% per annum, and (unless the redemption is for the purpose of the Sinking Fund or the Contingent Sinking Fund created by Article VIII in connection with which redemption no premium shall be payable) a premium of 1% of such principal amount if redeemed before January 1, 2019, in the case of Bonds of Series A, and on or before January 1, 2019, in the case of Bonds of Series B, but without premium if redeemed thereafter. Registered Bonds without coupons may be redeemed in portions amounting to $1,000 or multiples of $1,000, with interest and premium as aforesaid on the principal amount to be redeemed.

Upon the creation of any other series of Bonds the Railroad Company may reserve the right to redeem on any date prior to maturity all or from time to time any part of the Bonds of such series at such time or times and on such terms as shall be determined and specified in the supplemental indenture providing for the creation of such series and as shall be appropriately expressed in the Bonds of such series.

Except as otherwise provided in respect of Bonds of any particular series, the procedure for redemption of Bonds of all series which by their terms are redeemable shall be as hereinafter in this Article IV provided.

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Section 2. In case the Railroad Company shall desire to exercise such right to redeem all or any part of the Bonds of a particular series in accordance with the right reserved so to do, it shall publish a notice of such redemption, once each week for 4 successive weeks in a Daily Newspaper in the Borough of Manhattan, City and State of New York, and in a Daily Newspaper in the City of Chicago, State of Illinois, the first publication in each such newspaper to be not less than 90 days and not more than 120 days before the date fixed for redemption, except in the case of the redemption of all or any part of the Bonds of Series A or Series B on an interest payment date or for the purpose of the Sinking Fund, in which case the first publication in each such newspaper shall be not less than 60 days and not more than 90 days before the date fixed for redemption. It shall not be necessary for all of such publications in any such city to be made in the same newspaper. Such notice shall specify the series of the Bonds to be redeemed, the date fixed for redemption and the redemption price thereof, and shall state that payment of such redemption price will be made at the office or agency or at the offices or agencies of the Railroad Company at which the principal of such Bonds is payable, and that on and after said date interest thereon will cease to accrue. A copy of such notice shall be mailed by the Railroad Company at least 60 days prior to the date fixed for redemption to the Trustee and to the registered owners of registered Bonds without coupons and of coupon Bonds registered as to principal, so to be redeemed, at their last addresses as they shall appear upon the bond registry books, but neither failure to give such notice by mail, nor any defect therein, shall affect the validity of the proceedings for the redemption of the Bonds.

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If the Railroad Company shall elect to redeem less than all of the Bonds of any series then outstanding, it shall give the Trustee adequate notice in advance of the aggregate principal amount of the Bonds of such series to be redeemed, and thereupon the Trustee shall draw by lot, in such manner as it shall deem appropriate (and for that purpose the Railroad Company will, upon request of the Trustee, close or cause to to be closed for a period not exceeding 20 days the bond registry books), from the Outstanding Bonds, the distinguishing numbers of a principal amount of Bonds equal to such aggregate principal amount of bonds to be redeemed. In any drawing by lot under this Section 2, each registered Bond without coupons shall be represented by a separate number for each $1000 of its principal amount. The Trustee, after such drawing, shall promptly notify the Railroad Company in writing of the serial numbers of the Bonds so drawn, and in the case of any registered Bond without coupons to be redeemed in part only, the portion of the principal amount thereof to be redeemed. The notice of redemption shall specify the numbers of coupon Bonds and registered Bonds without coupons so drawn, and in case of any registered Bond without coupons which is to be redeemed in part only (by reason of the fact that distinguishing numbers representing only part of the principal amount thereof shall have been so drawn), the notice shall specify the serial number of such Bond and the portion of the principal amount thereof to be redeemed and shall state that on and after the date fixed for the redemption, upon surrender of such registered Bond, new Bonds of the same series and maturity in principal amount equal to the unredeemed portion of such registered Bond will be issued without expense to the holder of such registered Bond.

In case less than all of the Bonds of Series A or of Series B are to be called for redemption, there shall not be included

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in the drawing provided for in this Section 2 the distinguishing numbers of any Bonds of Series A or Series B, as the case may be, then held by the Exchange Agent under the Exchange Agency Agreement dated December 1, 1945, entered into between the Railroad Company and The First National Bank of Chicago, as Exchange Agent under the Plan, or held by the Bond Scrip Agent under the Bond Scrip Agreement dated December 1, 1945, entered into between the Railroad Company and The First National Bank of Chicago, as Bond Scrip Agent. The Railroad Company, at the time it shall give notice to the Trustee of its election to redeem less than all of the Outstanding Bonds of any series, to evidence the ownership of Bonds of such series owned by the Railroad Company, shall deliver to the Trustee an Officers' Certificate setting forth the serial numbers of any Bonds of such series owned by the Railroad Company, and in case of the redemption of Bonds of Series A or Series B shall also deliver to the Trustee a Certificate by a Vice President of The First National Bank of Chicago, or its successor as such Exchange Agent, stating the serial numbers of the Bonds of Series A and Series B remaining undistributed under the Plan, and a certificate signed by a Vice President of The First National Bank of Chicago, or its successor as such Bond Scrip Agent, stating the serial numbers of the Bonds of Series A and Series B then held by it as such Bond Scrip Agent under said Bond Scrip Agreement. If any certificate of such Exchange Agent or Bond Scrip Agent shall show that such Agent no longer holds any Bonds of Series A or Series B, a certificate from such Agent under the foregoing provision shall not thereafter be required.

Section 3. If publication of notice of redemption shall have been completed as above provided, the Bonds or portions of Bonds specified in such notice shall become due and

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payable on the date and at the place stated in such notice, at the applicable redemption price, and on and after such date (unless the Railroad Company shall fail to deposit with the Trustee, as hereinafter provided, funds sufficient for the payment of such Bonds at the redemption price) interest on the Bonds or portions of Bonds so called for redemption shall cease to accrue, and the coupons for such interest shall be void. On presentation and surrender of such Bonds on or after such date at any place or places of payment in said notice specified, accompanied by appropriate transfer powers in blank in the case of coupon Bonds registered as to principal and registered Bonds without coupons, and with all coupons, if any, thereto appertaining and maturing on or after such date, they shall be paid and redeemed by the Railroad Company at the applicable redemption price. If the Railroad Company, having completed publication of notice of redemption as required, fails so to deposit, or to direct the application from cash so available and held by the Trustee, of a sum of money equal to such redemption price, the Bonds so called for redemption, nevertheless, shall become due and payable on the date fixed for redemption.

Upon presentation of any registered Bond without coupons which is redeemed in part only, the Railroad Company shall execute and the Trustee shall authenticate and deliver to the registered holder thereof, without expense to such holder, a new registered Bond or Bonds without coupons or new coupon Bonds of the same series and maturity in principal amount equal to the unredeemed portion of the Bond so presented.

Section 4. If the Railroad Company shall deposit in trust with the Trustee on, or within 90 days prior to, the date fixed for redemption an amount in cash sufficient to redeem all Bonds, or portions thereof, then outstanding, called or to be

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called for redemption, and shall furnish to the Trustee proof satisfactory to it that notice of redemption of such Bonds has been published as herein provided, or provision satisfactory to the Trustee shall have been made for giving such notice, then the Bonds or portions of the Bonds to be redeemed shall no longer entitle the holders thereof to any lien under the Mortgage, save and except the right to receive the redemption price therefor.

All moneys deposited with the Trustee for the redemption of Bonds shall be held in trust for the benefit of the holders of such Bonds, but subject to the provisions of Section 4 of Article XIX.

Section 5. If the date fixed for redemption be a legal holiday or a day on which banking institutions are authorized by law to be closed, then payment of the redemption price may be made on the next succeeding day that is not a legal holiday or a day on which banking institutions are authorized by law to be closed, with the same force and effect as if made on the nominal date fixed for redemption, and no interest shall accrue for the period after the date fixed for redemption.

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ARTICLE V

Available Net Income

Section 1. The Railroad Company covenants that Available Net Income for each calendar year, beginning with the calendar year 1944, and continuing as long as any Bonds are outstanding under the Mortgage, shall be determined and applied as provided in this Section 1, subject to the provisions of Section 7 of this Article V.

The Available Net Income for the calendar year 1944 and for each calendar year thereafter shall be determined from the accounts of the Railroad Company and its Railroad Subsidiaries not later than March 15 of the following calendar year; and Available Net Income for each year shall be applied, to the extent that the same shall suffice therefor, during the succeeding calendar year for the following purposes and in the following order:

(a) To the payment, *first* of the current annual instalment, and *next* of any deficit in the annual instalment for the next preceding (but no other) calendar year (but not theretofore), required to be paid into the Additions and Betterments Fund out of Available Net Income pursuant to the provisions of clause (a) of Section 1 of Article VI;

(b) To the reimbursement, *first* of the Reserve and Retirement Fund to the extent that the Fund has not previously been reimbursed for expenditures from the Fund in payment of fixed charges under Section 3 of Article VII, and *next* of the treasury of the Railroad Company, for the amount expended in the payment of fixed charges for the next preceding calendar year, if and to the extent that such fixed charges were in excess of the consolidated income available for fixed charges of the Railroad Company and its Railroad Subsidiaries for such preceding calendar year;

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(c) To the payment, *first* of any amounts currently required to be paid into any Equipment Sinking Fund established for the retirement of any First Mortgage Bonds pursuant to the requirements of Section 3 of Article VIII of the First Mortgage, and *next* into any sinking fund established for the retirement of any Bonds issued upon the basis of the acquisition of Equipment pursuant to the requirements of Section 2 of Article VIII, to the extent that the Reserve and Retirement Fund applicable for such purposes under clause (a) of Section 2 of Article VII shall be inadequate therefor;

(d) To the payment of the amount currently required to be paid into the Series A Sinking Fund established for the retirement of First Mortgage Bonds of Series A pursuant to the requirements of Section 1 of Article VIII of the First Mortgage, or into any sinking fund equivalent in dollar amount that may be established for the retirement of First Mortgage Bonds of any series issued for the purpose of refunding the First Mortgage Bonds of Series A;

(e) To the payment of the currently payable Contingent Interest on all outstanding Bonds of Series A (or Bonds of any series issued for the purpose of refunding such Bonds of Series A) and, from and after January 1, 1946, the currently payable Contingent Interest on all outstanding Modified Terre Haute Bonds, not then owned by the Railroad Company, and the unpaid accumulations of interest that shall have accrued thereon, subject to the provisions of Section 2 of this Article V;

(f) To the payment of the additional amount, if any, currently to be paid into the Additions and Betterments Fund out of Available Net Income pursuant to the provisions of clause (b) Section 1 of Article VI;

(g) To the payment of the currently payable Contingent Interest on all outstanding Bonds of Series B (or Bonds of any series issued for the purpose of refunding such Bonds of Series B), not then owned by the Railroad Company, and the unpaid accumulations of interest that shall have accrued thereon, including Bonds of Series B

which have been converted but upon which interest is payable under Section 4 of Article XIII;

(h) To the payment of the currently payable Contingent Interest on all outstanding Bonds of series other than Series A and Series B (or Bonds of any series issued for the purpose of refunding Bonds of Series A or Series B or both), not then owned by the Railroad Company, and the unpaid accumulations of interest that shall have accrued thereon, with such priority among the Bonds of such other series as shall be provided in the Bonds of such series, subject to the provisions of Section 3 of this Article V;

(i) To the payment, *first* of the amounts currently required to be paid into the Sinking Fund established by Article VIII for the retirement of Bonds of Series A and Series B (or Bonds of any series issued for the purpose of refunding Bonds of either or both such series), and *next* of any amounts currently required to be paid into any sinking fund established by the Mortgage for the retirement of any other Bonds, with such priority as between sinking funds for the several other series as may be provided in the Mortgage or any indenture supplemental thereto;

(j) To the payment of any amounts currently required to be paid into the Contingent Sinking Fund established for the retirement of First Mortgage Bonds pursuant to the requirements of Section 2 of Article VIII of the First Mortgage; and

(k) Any remaining Available Net Income, after deducting therefrom such amounts as shall have been charged to operating expenses and added to such Available Net Income representing the service value of non-depreciable roadway property retired and not replaced, may be applied as the Board of Directors may determine to the payment of dividends on the several classes of capital stock of the Railroad Company in the order of their preferences, or to any other proper corporate purposes, subject to the provisions of Section 4 of this Article V.

No Contingent Interest shall be required to be paid under any provision of this Section 1 if the amount so to be paid would be less than ¼ of 1% on each $100 of the principal amount of any Contingent Interest bearing obligation, and all payments of Contingent Interest shall be made in multiples of one cent for each $100 of the principal amount of such obligation. Any excess available for interest not paid because of this provision shall be retained by the Railroad Company and added to the amount available for such interest in the succeeding income period or periods.

SECTION 2. If the amount of Available Net Income applicable to the payment of the currently payable Contingent Interest on all outstanding Bonds of Series A and on all outstanding Modified Terre Haute Bonds is insufficient for the payment of the full Contingent Interest at the rate of 4½% on the Bonds of Series A and at the rate of 1½% on the Modified Terre Haute Bonds, the amount of Available Net Income applicable to such payment under clause (e) of Section 1 of this Article V shall be apportioned between the Bonds of Series A and the Modified Terre Haute Bonds, so that there shall be paid to the holders of the Modified Terre Haute Bonds an amount that bears the same ratio to the full Contingent Interest of 1½% on the Modified Terre Haute Bonds as the amount paid to the holders of the Bonds of Series A bears to the full contingent interest of 4½% on the Bonds of Series A. Payments on the unpaid accumulations of interest that shall have accrued on the Bonds of Series A and the Modified Terre Haute Bonds shall be similarly apportioned.

SECTION 3. If Bonds of any series subsequent to Series A and Series B shall be issued and the Bonds of such subsequent series shall bear interest at different rates but without priority as to payment among such series, and if the amount

of Available Net Income applicable to the payment of the currently payable Contingent Interest on all of the Bonds of such subsequent series is insufficient for the payment thereof in full, including any then unpaid accumulations of interest that shall have accrued thereon, the amount of such Available Net Income applicable to such payment under clause (h) of Section 1 of this Article V shall be apportioned among the Bonds of such subsequent series in accordance with the supplemental indentures creating such series.

SECTION 4. The Railroad Company covenants that in the application of any remaining Available Net Income for any calendar year applicable to the payment of dividends under the provisions of clause (k) of Section 1 of this Article V, it will not declare, set aside or pay any dividend on its common stock unless and until it shall have paid into the Contingent Sinking Fund pursuant to the provisions of Section 4 of Article VIII, an amount in cash equal to 50% of the amount of such dividend.

SECTION 5. If the obligation of the Railroad Company on the Bonds, First Mortgage Bonds or Modified Terre Haute Bonds shall cease to be an obligation of the Railroad Company, either through payment or satisfaction in full, or if for any other reason the indenture securing or providing for such obligation has been terminated and released, whether by refunding or otherwise, the requirement to apply Available Net Income for such obligation in the order provided in Section 1 of this Article V shall cease and the amount of Available Net Income otherwise required to be applied thereto, after meeting all remaining requirements, if any, of like priority, shall be applied thereafter to the remaining purposes in the order of priority specified.

SECTION 6. Concurrently with the execution and delivery of the Mortgage, the Railroad Company has filed with the Trustee a report, signed by its President and Comptroller, showing in reasonable detail the amount of Available Net Income for the calendar year 1944 and the applications thereof that have been made by the Railroad Company in accordance with the provisions of Section 1 of this Article V.

On or before March 15 of each year, beginning with the year 1946, the Railroad Company shall file with the Trustee a Certified Resolution determining the Available Net Income for the preceding calendar year, and a report signed by the President or a Vice President, and by the Comptroller or Assistant Comptroller, of the Railroad Company, showing the calculations in reasonable detail of the amount of Available Net Income for the preceding calendar year and the payments made by the Railroad Company during the preceding calendar year pursuant to the provisions of Section 1 of this Article V.

In determining Available Net Income for any year the members of the Board of Directors may rely upon and shall be fully protected in relying upon any statement signed by the Chief Accounting Officer as to any facts set forth therein and upon advice of counsel as to the meaning and application of any provision of the Mortgage.

If the holders of not less than 25% in principal amount of the Outstanding Bonds shall have questioned the correctness of any such report by a notice in writing addressed to the Trustee and signed by such holders, the Trustee shall request the Railroad Company to have the accounts of the Railroad Company for the year in question (and for prior or subsequent years, so far as necessary to check the correctness of such report) audited so far as necessary to check the correctness of such report, at the expense of the Railroad Company, by a firm of certified public accountants selected by the Board

of Directors and approved by the Trustee, unless an audit shall have theretofore been made or is then being made pursuant to similar provisions in another indenture securing obligations of the Railroad Company or pursuant to the voluntary action of the Railroad Company. The Railroad Company agrees that it will comply with any such request for an audit. Any such audit shall, promptly after its completion, be filed with the Trustee and shall be open to inspection at all reasonable times by the holders of the Bonds.

The Railroad Company, in the discretion of the Board of Directors, may at any time pay any Contingent Interest which has accumulated on the Bonds or Modified Terre Haute Bonds, or both, out of any funds lawfully available therefor although there be no Available Net Income applicable thereto, provided (i) such payments are made in the order of priority provided in this Article V, (ii) all payments having a priority senior thereto out of Available Net Income for the preceding calendar year have been paid in full, and (iii) the Board of Directors shall have determined that the funds to be used for such payment of Contingent Interest are not required for Additions and Betterments necessary or desirable for the safe operation of the properties of the Railroad Company or for the maintenance of the usual standards of efficiency or economy of operation of such properties.

SECTION 7. The provisions of this Article V are hereby made expressly subject to each and all of the remedies of the Trustee or the Bondholders as set forth in Article XVII hereof and the operation of the provisions of this Article V shall be suspended during the continuance of either of the Events of Default specified in clause (d) or clause (e) of Section 2 of Article XVII.

ARTICLE VI

ADDITIONS AND BETTERMENTS FUND

SECTION 1. The Railroad Company covenants that it will create and maintain a fund to be known as the "Additions and Betterments Fund" and that on or before April 1 in each year, beginning with the year 1946, and continuing as long as any Bonds are outstanding under the Mortgage, but subject to the provisions of Section 4 of this Article VI, it will pay into the Additions and Betterments Fund in cash the sum of $2,500,000 plus such additional amount, if any, as the Board of Directors shall determine and authorize, subject, however, to the following:

(a) The payment of $2,500,000 in any year shall be made only from the following sources and in the following order, and to the extent that such sources are adequate therefor, respectively: *First,* from funds made available from credits to the reserves for depreciation and amortization of roadway and structures for the next preceding calendar year less the service losses charged to such reserves for such year on account of depreciable property retired and replaced, and *Second,* from Available Net Income for such next preceding calendar year applicable therefor in accordance with the provisions of clause (a) of Section 1 of Article V; provided, however, that if such sources are not adequate therefor, an amount not exceeding the deficiency may, in the discretion of the Board of Directors, be paid into the Additions and Betterments Fund from such sources, and in the same order, on or before April 1 in the next succeeding calendar year (but not thereafter), after provision has first been made for the then current payment pursuant to this clause (a).

(b) The additional amount, if any, payable into the Additions and Betterments Fund in any year shall be paid from the following sources and in the following order, and to the extent that such sources are adequate

therefor, respectively: *First,* from the remaining funds made available from the credits to the reserves for depreciation and amortization of roadway and structures for the next preceding calendar year, less the service losses charged to such reserves for such year on account of depreciable property retired and replaced, and *Second,* from Available Net Income for the next preceding calendar year applicable therefor in accordance with the provisions of clause (f) of Section 1 of Article V.

(c) The aggregate of the amounts paid into the Additions and Betterments Fund in any year in accordance with this Section 1 shall not exceed $5,000,000 or an amount equal to 4% of the railway operating revenues of the Railroad Company for the next preceding calendar year under the Uniform System of Accounts, whichever is greater, less the aggregate expenditures out of the Reserve and Retirement Fund during the current calendar year for Gross Expenditures pursuant to the provisions of clauses (d) and (f) of Section 2 of Article VII.

(d) If the Railroad Company shall charge to operating expenses in any calendar year the Cost of any Additions and Betterments which would have been properly chargeable to Capital Accounts under the Uniform System of Accounts in effect on June 4, 1940, the amount payable into the Additions and Betterments Fund in the next succeeding calendar year shall be reduced by the amount of such charges.

SECTION 2. All funds which are paid into the Additions and Betterments Fund shall be segregated from the general funds of the Railroad Company, shall be held by the Railroad Company in a separate bank account or invested in direct or guaranteed obligations of the United States of America, and shall be expended to provide for, or to reimburse the treasury of the Railroad Company for, all or any part of Cost of Additions and Betterments payable in cash to the extent not theretofore Bonded or Otherwise Financed. Any balance

remaining in the Additions and Betterments Fund at the close of any calendar year, after the final determination of the amount to be paid into such Fund during such year and the amount expended or appropriated in respect of expenditures from the Fund during such calendar year, shall be paid into the Reserve and Retirement Fund on or before April 1 of the next succeeding calendar year.

SECTION 3. The Railroad Company covenants that on or before April 1 in each year, beginning with the year 1947, it will deliver to the Trustee a report signed as in the case of an Officers' Certificate, which report shall state separately with respect to the preceding calendar year (i) the amounts of all payments made into the Additions and Betterments Fund as required or permitted under the provisions of this Section 1 of Article VI and a computation showing the determination of such amounts in accordance with the provisions of this Article VI; (ii) the amounts of all expenditures from and unexpended appropriations of the Additions and Betterments Fund made pursuant to the provisions of Section 2 of this Article VI, together with a description thereof in reasonable detail; (iii) the balance in the Additions and Betterments Fund at the close of such calendar year required to be paid into the Reserve and Retirement Fund by the provisions of Section 2 of this Article VI; (iv) the amounts, if any, remaining unexpended at the close of such calendar year out of amounts appropriated from the Additions and Betterments Fund for prior years; and (v) that no part of the Cost of Additions and Betterments payable in cash with respect to which expenditures have been made or the treasury of the Railroad Company reimbursed during such calendar year has theretofore been Bonded or Otherwise Financed.

The Railroad Company covenants that on or before April 1, 1946, it will deliver to the Trustee the report that would have

been deliverable to the Trustee on that date with respect to the calendar year 1945 if the provisions of this Article VI and the Additions and Betterments Fund had been operative from January , 1944, and there had been paid into the Fund on or before April 1, 1945, the sum of $2,500,000 plus such additional amount, if any, as the Board of Directors shall determine prior to the delivery of such report.

SECTION 4. The provisions of this Article VI are hereby made expressly subject to each and all of the remedies of the Trustee or the Bondholders as set forth in Article XVII hereof and the operation of the provisions of this Article VI shall be suspended during the continuance of either of the Events of Default specified in clause (d) or clause (e) of Section 2 of Article XVII.

ARTICLE VII

RESERVE AND RETIREMENT FUND

SECTION 1. The Railroad Company covenants that it will create and maintain a fund to be known as the "Reserve and Retirement Fund," and that on or before April 1 of each year, beginning with the year 1946, and continuing so long as any Bonds are outstanding under the Mortgage, subject to the provisions of Section 5 of this Article VII, it will pay into the Reserve and Retirement Fund in cash:

(a) Such amounts as the Railroad Company shall charge to operating expenses and to income accounts in respect of the next preceding calendar year for depreciation and amortization of Equipment, which shall be not less than the amounts required therefor by the Interstate Commerce Commission or other public regulatory body having jurisdiction or, if no specific amount or rate of depreciation or amortization of Equipment is so required, then such reasonable amount therefor as shall be established by the Board of Directors within the maximum amount or rate permitted by such Commission or other public regulatory body; and

(b) Such amounts as shall be required to be paid into the Reserve and Retirement Fund out of the balance remaining in the Additions and Betterments Fund at the close of such preceding calendar year pursuant to the provisions of Section 2 of Article VI.

Payments into the Reserve and Retirement Fund pursuant to clause (a) of this Section 1 may be made on a monthly basis or otherwise, provided that all required payments into the Fund relating to any calendar year shall have been completed on or before April 1 of the succeeding calendar year.

SECTION 2. All funds paid into the Reserve and Retirement Fund shall be segregated from the general funds of the Railroad Company, shall be held by the Railroad Company in a

separate bank account or invested in direct or guaranteed obligations of the United States of America, and shall be expended to provide for, or to reimburse the treasury of the Railroad Company for, the following purposes and in the following order, subject to the provisions of Section 3 of this Article VII:

(a) To pay, *first* the principal of Equipment Obligations as they severally mature, *next* the current annual instalments required to be paid into Equipment Sinking Funds established for the retirement of First Mortgage Bonds pursuant to the provisions of Section 3 of Article VIII of the First Mortgage, and *next* the current instalments required to be paid into any sinking funds established for the retirement of Bonds pursuant to the provisions of Section 2 of Article VIII of the Mortgage;

(b) To pay in cash all or any part of the cost of acquiring or constructing new Equipment to the extent not financed by Equipment Obligations;

(c) To pay all or any part of the cost of replacing Equipment that has become worn-out, lost, destroyed or rendered unfit for use and that is required to be replaced by the terms of an Equipment Obligation pertaining thereto;

(d) To provide for, or to reimburse the Railroad Company for, all or any part of the Gross Expenditures representing the replacement of physical property retired;

(e) To provide for, or to reimburse the Railroad Company for, the cost of additions and betterments to Equipment required to maintain the operating efficiency of the Railroad Company's railway system unimpaired, but only to the extent that the expenditures therefor are properly chargeable to Capital Accounts;

(f) To provide for, or to reimburse the Railroad Company for, any other Gross Expenditures;

(g) The balance, if any, remaining in the Reserve and Retirement Fund at the close of any calendar year, after

the final determination of the amount to be paid into such Fund in respect of such calendar year and the amount expended or appropriated in respect of expenditures from the Fund during such calendar year, may in the discretion of the Board of Directors, and shall if and to the extent such balance exceeds $5,000,000, be deposited with the trustee of the First Mortgage on or before March 1 of the next succeeding calendar year as and for an addition to the Contingent Sinking Fund to be applied by said trustee to the retirement of First Mortgage Bonds in accordance with the provisions of Section 2 of Article VIII of the First Mortgage;

provided, however, that (i) the Reserve and Retirement Fund shall not be expended for any of the purposes described in clauses (b), (c), (d) and (e) unless the amount then in the Fund, plus the amounts estimated to be payable into the Fund in respect of the remainder of the then current calendar year, exceeds the aggregate of the amounts required to be paid out of the Fund in respect of the remainder of such year for the purposes described in clause (a), and then only to the extent of such excess; (ii) the Reserve and Retirement Fund shall not be expended for the purpose described in clause (f) unless the amount of such excess is more than $5,000,000, and then only to the extent of such excess over $5,000,000; (iii) the Reserve and Retirement Fund shall not be expended for any of the purposes described in clauses (b), (c), (d), (e) and (f) except to the extent not theretofore Bonded or Otherwise Financed; and (iv) all payments into the Reserve and Retirement Fund on account of the amortization of Equipment in accordance with the provisions of Section 124 of the Internal Revenue Code, as amended by the Revenue Act of 1942 and the Tax Adjustment Act of 1945, shall be expended only for the payments as they mature of the principal of Equipment Obligations through which the acquisitions of such Equipment were financed and shall not be included in any

computation of excess or balance in the Fund for any of the purposes described in clauses (b), (c), (d), (e), (f) and (g).

SECTION 3. In any calendar year and in the discretion of the Board of Directors, expenditures may be made from the Reserve and Retirement Fund to pay the fixed interest or any fixed sinking fund requirements of the Railroad Company on the First Mortgage Bonds or on any other obligations of the Railroad Company secured by mortgage lien on the properties of the Railroad Company senior to or on a parity with the lien of the First Mortgage, if and to the extent that the estimated consolidated income available for fixed charges of the Railroad Company and its Railroad Subsidiaries for such year under the Uniform System of Accounts will be insufficient therefor, in the opinion of the Board of Directors.

In the event that consolidated income available for fixed charges of the Railroad Company and its Railroad Subsidiaries under the Uniform System of Accounts, as finally determined for the year in question, was sufficient to have covered the expenditures, if any, from the Reserve and Retirement Fund under this Section 3, the Railroad Company covenants to reimburse the Reserve and Retirement Fund immediately to the extent that such income before fixed charges was sufficient to cover such expenditures.

In the event of any expenditures from the Reserve and Retirement Fund pursuant to this Section 3, then, after such expenditures, no contingent interest on the Bonds and no dividends on any class of capital stock of the Railroad Company shall be paid until there has been restored to the Reserve and Retirement Fund by way of reimbursement an amount equal to all expenditures from the Fund made pursuant to this Section 3.

Prior to making any expenditure from the Reserve and Retirement Fund under this Section 3, there shall be filed with

the Trustee (i) a Certified Resolution evidencing the determination of the Board of Directors to use the Reserve and Retirement Fund for the purposes therein specified and stating that in the opinion of the Board of Directors the consolidated income available for fixed charges of the Railroad Company and its Railroad Subsidiaries for such year will be insufficient to cover the expenditures by the amount of the funds to be so used out of the Reserve and Retirement Fund, and (ii) an Officers' Certificate specifying the total estimated fixed interest and fixed sinking fund requirements of the Railroad Company for the calendar year then current and the estimated amount of consolidated income available for fixed charges for such year.

Within 10 days after reimbursement of the Reserve and Retirement Fund by the restoration thereto of the amount of such expenditures under this Section 3, there shall be filed with the Trustee an Officers' Certificate stating the amount of such reimbursement, and the source from which the funds effecting such reimbursement were derived.

SECTION 4. The Railroad Company covenants that on or before April 1 of each year, beginning with the year 1946, it will deliver to the Trustee a report signed as in the case of an Officers' Certificate, which report shall state separately with respect to the preceding calendar year (i) the amounts of all payments into the Reserve and Retirement Fund required or permitted under the provisions of Section 1 of this Article VII and a computation showing the determination of such amounts in accordance with the provisions of said Section 1; (ii) the amounts of all expenditures from and unexpended appropriations of the Reserve and Retirement Fund made pursuant to the provisions of Sections 2 and 3 of this Article VII, together with a description thereof in reasonable detail; (iii) the amounts of any reimburse-

ments of the Reserve and Retirement Fund pursuant to the provisions of Section 3 of this Article VII; and (iv) the balance in the Reserve and Retirement Fund at the close of such calendar year; and if any expenditures have been made from the Reserve and Retirement Fund for any of the purposes described in clauses (b), (c), (d), (e) and (f) of Section 2 of this Article VII, a statement that such expenditures were not theretofore Bonded or Otherwise Financed.

The Railroad Company, concurrently with the execution and delivery of the Mortgage, has delivered to the Trustee the report that would have been deliverable to the Trustee on April 1, 1945, pursuant to this Section 4, if the provisions of this Article VII and the Reserve and Retirement Fund had been operative from January 1, 1944, which report states that there was no unexpended balance in said Fund on December 1, 1945.

SECTION 5. The provisions of this Article VII are hereby made expressly subject to each and all of the remedies of the Trustee or the Bondholders as set forth in Article XVII hereof and the operation of the provisions of this Article VII shall be suspended during the continuance of either of the Events of Default specified in clause (d) or clause (e) of Section 2 of Article XVII.

ARTICLE VIII

SINKING FUNDS

SECTION 1. As and for a Sinking Fund for the retirement of Bonds of Series A and Series B, the Railroad Company

(a) has deposited with the Trustee, concurrently with the execution and delivery of the Mortgage, the sum of $543,393.50, being the amount which it would have been required to deposit with the Trustee under clause (b) of this Section 1 out of Available Net Income for the calendar year 1944 if the Mortgage and the provisions of said clause (b) had been operative from January 1, 1944;

(b) covenants that on or before April 1 of each year, beginning with the year 1946, it will deposit with the Trustee an amount equal to ½ of 1% of the aggregate principal amount of Bonds of Series A and Series B originally issued hereunder, but only to the extent that such amount may be applicable for such purposes out of Available Net Income for the preceding calendar year under clause (i) of Section 1 of Article V.

Moneys which are deposited with the Trustee as and for the Sinking Fund, as required by the provisions of this Section 1, shall be applied by the Trustee, so long as no Event of Default has occurred and is continuing, to the purchase or redemption of Outstanding Bonds of Series A, so long as any Bonds of Series A shall remain Outstanding, and thereafter to the purchase or redemption of Outstanding Bonds of Series B, in accordance with the provisions of this Section 1.

The Trustee may purchase such Bonds in the open market at the lowest price or prices at which, in its sole discretion, it shall deem such Bonds reasonably obtainable; or, if the Trus-

tee, in its sole discretion, shall deem it advisable, it may advertise for proposals to sell such Bonds to it, reserving the right to reject any or all such proposals in whole or in part, and may purchase such Bonds at the lowest price or prices asked in such proposals if it deems such purchases advisable; but no such Bonds shall be purchased in the open market or in response to proposals, as aforesaid, at a price, including interest, in excess of the amount, including interest, which would be payable in case of redemption thereof for the Sinking Fund at the earliest applicable redemption date.

Whenever the balance of moneys remaining on deposit in the Sinking Fund on January 1 of any year equals or exceeds $50,000 the Trustee shall apply such balance to the redemption of Outstanding Bonds of Series A, so long as any Bonds of Series A shall remain Outstanding, and thereafter to the redemption of Outstanding Bonds of Series B, on the next interest payment date applicable to Bonds of such Series, at the redemption price specified in Section 1 of Article IV. The Trustee shall give notice of such redemption in the name of the Railroad Company in the manner and in accordance with the applicable provisions of Article IV; and the Trustee is hereby appointed the agent of the Railroad Company for such purpose. The Railroad Company covenants that whenever any redemption of Bonds shall be required under the provisions of this Section 1, it will at the request of the Trustee take all action necessary, and authorize the Trustee to take all action necessary, to redeem such Bonds on the date specified by the Trustee.

The Railroad Company covenants that in connection with any purchase or redemption of Bonds under this Section 1 it will deposit with the Trustee, upon request of the Trustee in the case of purchase or prior to the date fixed for redemption in the case of redemption, in addition to funds theretofore deposited in the Sinking Fund, moneys sufficient to pay, in the case of purchase, the excess, if any, of the purchase price, including accrued interest, over the principal amount thereof, and, in the case of redemption, all interest required to be paid thereon to the date fixed for redemption.

All advertising and publishing costs and other expenses incurred in the purchase or redemption of such Bonds, and all amounts paid on account of interest on the purchase of such Bonds, shall be paid by the Railroad Company, or, if paid by the Trustee, shall be repaid by the Railroad Company to the Trustee upon demand.

All Bonds purchased or redeemed out of the Sinking Fund shall be cancelled and shall not be made the basis for the authentication and delivery of any Bonds or the withdrawal, payment or application of any cash under any provision of the Mortgage.

Section 2. Whenever the acquisition of Equipment is made the basis for the authentication and delivery of Bonds, the Railroad Company covenants that it will, by supplemental indenture, establish an Equipment Sinking Fund for the retirement of an equivalent principal amount of Bonds within a period of 15 years or a period equal to the estimated service life of such Equipment, whichever period is the shorter, and will covenant therein to deposit with the Trustee on each January 1 and July 1 thereafter, to the extent, *first* of the funds in the Reserve and Retirement Fund available therefor pursuant to clause (a) of Section 2 of Article VII, and *next* of Available Net Income applicable thereto pursuant to clause (c) of Section 1 of Article V, an amount of money equal to the quotient obtained by dividing the principal amount of such Bonds by 30 or by twice the number of years

of such estimated service life, whichever is the lesser. If such Equipment or any part thereof shall have been in use by the Railroad Company for a period of more than 90 days at the time of an Application for the authentication and delivery of Bonds, the Gross Expenditures for such Equipment and the principal amount of Bonds to which the Railroad Company would be entitled on account thereof shall be proportionately reduced by the period of such use by the Railroad Company; and the amount of money to be deposited with the Trustee on each January 1 and July 1 above specified shall be increased by such an amount as to make said semi-annual deposits equal in the aggregate, over a period of 15 years or a period equal to the estimated service life of such Equipment, whichever is the shorter period, diminished by the period of such use by the Railroad Company, the principal amount of Bonds which the Railroad Company may be entitled to receive.

For the purpose of this Section 2, the estimated service life of any Equipment shall be that established by the certificate of an engineer (who shall be appointed by the Board of Directors and be satisfactory to the Trustee and who may be an officer or employee of the Railroad Company) delivered to the Trustee pursuant to the provisions of clause (f) of Section 2 of Article III when the acquisition of such Equipment is made the basis for the authentication and delivery of Bonds.

Any moneys deposited with the Trustee as and for an Equipment Sinking Fund shall be applied by the Trustee to the retirement of Bonds in accordance with the provisions of the supplemental indenture creating such Equipment Sinking Fund.

Section 3. Whenever the acquisition of Equipment is made the basis for the withdrawal, payment or application of any cash held by the Trustee under any provision of the

Mortgage, the Railroad Company covenants to pay to the Trustee on each January 1 and July 1 thereafter an amount of money equal to the quotient obtained by dividing the amount of cash so withdrawn, paid or applied by 30 or by twice the number of years of service life of such Equipment, whichever is the lesser. If such Equipment or any part thereof shall have been in use for a period of more than 90 days at the time of application for such withdrawal, payment or application, the Gross Expenditures for such Equipment, and the amount of cash that may be withdrawn, paid or applied, shall be reduced in the same manner and to the same extent as provided in the first paragraph of Section 2 of this Article VIII.

For the purpose of this Section 3, the estimated service life of any Equipment shall be established by the certificate of an engineer (who shall be appointed by the Board of Directors and approved by the Trustee and who may be an officer or employee of the Railroad Company) delivered to the Trustee with an Application for the withdrawal, payment or application of cash upon the basis of the acquisition of such Equipment.

Such moneys shall be held and applied by the Trustee as in the case of money deposited upon the release of mortgaged property in the manner provided in Section 7 of Article XI.

Section 4. As and for a Contingent Sinking Fund for the retirement of Bonds, the Railroad Company covenants that prior to or concurrently with the declaration of any dividend on its common stock it will deposit with the Trustee an amount equal to 50% of such dividend.

Moneys which are deposited with the Trustee as and for the Contingent Sinking Fund shall be applied by the Trustee,

so long as no Event of Default has occurred and is continuing, to the purchase or redemption of Bonds in accordance with the provisions of this Section 4.

So long as Bonds of Series A and Series B are outstanding under the Mortgage, such moneys shall be applied as nearly as may be in equal parts to purchase or redeem Bonds of each such series. If the Bonds of either of such series shall no longer be outstanding, all of such moneys shall be applied to the purchase or redemption of Bonds of the other series. If no Bonds of either of such series shall be outstanding, such moneys shall be applied to the purchase or redemption of Bonds of such other series as shall be determined by the supplemental indentures creating such other series.

The Trustee may purchase such Bonds in the open market at the lowest price or prices at which, in its sole discretion, it shall deem such Bonds reasonably obtainable; or, if the Trustee, in its sole discretion, shall deem it advisable, it may advertise for proposals to sell such Bonds to it, reserving the right to reject any or all such proposals in whole or in part, and may purchase such Bonds at the lowest price or prices asked in such proposals if it deems such purchases advisable; but no such Bonds shall be purchased in the open market or in response to proposals, as aforesaid, at a price, including interest, in excess of the amount, including interest, which would be payable in case of redemption thereof for the Contingent Sinking Fund at the earliest applicable redemption date.

At the expiration of 6 months after the making of any deposit pursuant to this Section 4, if the balance remaining in the Contingent Sinking Fund applicable to the purchase or redemption of Bonds of any series equals or exceeds $50,000 the Trustee shall apply such balance to the redemption of Bonds of such series on the next interest payment date at the redemption price (exclusive of premium) then

applicable to Bonds of such series. The Trustee shall give notice of such redemption in the name of the Railroad Company in the manner and in accordance with the applicable provisions of Article IV; and the Trustee is hereby appointed the agent of the Railroad Company for such purpose. The Railroad Company covenants that whenever any redemption of Bonds shall be required under the provisions of this Section 4, it will at the request of the Trustee take all action necessary to redeem such Bonds on the date specified by the Trustee.

The Railroad Company covenants that in connection with any redemption of Bonds under this Section 4 it will deposit with the Trustee, in addition to funds theretofore deposited in the Contingent Sinking Fund, moneys sufficient to pay on or before the date fixed for redemption all interest required to be paid thereon to the date fixed for redemption.

All advertising and publishing costs and other expenses incurred in the purchase or redemption of such Bonds, and all amounts paid on account of interest on the purchase of such Bonds, shall be paid by the Railroad Company, or, if paid by the Trustee, shall be repaid by the Railroad Company to the Trustee upon demand.

All Bonds purchased or redeemed out of the Contingent Sinking Fund shall be cancelled and shall not be made the basis for the authentication and delivery of any Bonds or the withdrawal, payment or application of any cash under any provision of the Mortgage.

ARTICLE IX

General Covenants

The Railroad Company covenants as follows:

Section 1. The Railroad Company will duly and punctually pay or cause to be paid the principal of (and premium, if any) and interest on the Bonds at the times and at the place or places and in the manner and to the extent specified therein and in the coupons.

Section 2. The Railroad Company will maintain in the City of Chicago, Illinois, and in the Borough of Manhattan, City of New York, New York, an office or agency where payment of the principal of and interest on Bonds may be made, where notices, presentations and demands to or upon the Railroad Company in respect of Bonds or coupons appertaining thereto or in respect of the Mortgage may be given or made, where Bonds may be registered, transferred and exchanged, and where such Bonds as are convertible may be presented and surrendered for conversion. The Railroad Company will also maintain a similar office or agency in each other city where the principal of or interest on any of the Bonds is payable, as provided in Article II, or where any Bond may be converted. The Railroad Company will give to the Trustee notice of the location of all such offices or agencies and of any change of location thereof. In case the Railroad Company shall fail to maintain any such office or agency or shall fail to give notice of the location or of any change in the location thereof, notices, presentations and demands may be given or made at the principal office of the Trustee.

If the Railroad Company shall appoint a paying agent other than the Trustee, it will cause such paying agent to

execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section 2:

(a) that it will hold all sums held by it as such agent for the payment of the principal of (and premium, if any) or interest on any of the Bonds (whether such sums have been paid to it by or on behalf of the Railroad Company or any other obligor on the Bonds) in trust for the benefit of the holders of such Bonds or the coupons for such interest, as the case may be; and

(b) that it will give to the Trustee notice of any failure by the Railroad Company (or by any other obligor on such Bonds) to make any payment of the principal of (and premium, if any) or interest on such Bonds when the same shall be due and payable which shall come to its notice or knowledge as such paying agent.

If the Railroad Company shall act as its own paying agent in respect of the Bonds of any series, it will, on or before each date on which the principal of (and premium, if any) or interest on such Bonds is due and payable, set aside, segregate and hold in trust for the benefit of the holders of such Bonds or the appurtenant coupons, as the case may be, a sum sufficient to pay such principal (and premium, if any) and interest so becoming due and payable and will notify the Trustee of any failure to take such action.

The Railroad Company may, at any time, for the purpose of obtaining a release or satisfaction of the Mortgage or for any other reason, pay or cause to be paid to the Trustee all sums held in trust by it or by any paying agent pursuant to this Section 2, such sums thereafter to be held by the Trustee upon the same trusts as in this Section 2 provided.

The agreement to hold sums in trust as provided in this Section 2 is subject to the provisions of Section 4 of Article XIX.

SECTION 3. The Railroad Company will execute and deliver, or will cause to be executed and delivered, all such further deeds, mortgages, assignments and transfers as may be required for the better mortgaging, assigning and confirming to the Trustee of the property hereby mortgaged, conveyed or assigned, or intended so to be, or which the Railroad Company may hereafter become bound to convey or assign to the Trustee.

The Railroad Company will deliver to the Trustee on or before April 1 in each year, beginning with the year 1946, an Opinion of Counsel that no further deeds, mortgages, assignments or transfers are required to be executed and delivered by the Railroad Company under the provisions of this Section 3, except such instruments as shall be specified in such opinion.

SECTION 4. The Railroad Company owns and is lawfully possessed of the lines of railroad, property and franchises referred to in the granting clauses hereof, and is duly authorized to operate and does operate said lines of railroad, and covenants and agrees to execute any and all instruments and do any and all acts or things necessary or proper to perfect its title to the same or any thereof, and, subject to the provisions of Article XII hereof, to take all steps and do all acts necessary to continue and maintain its corporate existence and authority to operate its lines of railroad.

SECTION 5. The Railroad Company, from time to time as they shall become due, will make, or cause to be made, any and all payments required to be made under and by the terms of any Equipment Obligation, including those described in the granting clauses hereof, and will do or cause to be done all and every such further acts as may be necessary to assure

to the Railroad Company the use of the Equipment to which such Equipment Obligation relates and the ultimate acquisition of complete title thereto.

Nothing in this Section 5 contained and nothing in any other provision of the Mortgage, express or implied, is intended or shall be construed to limit the right or power of the Railroad Company, which is hereby expressly reserved, to extend, prior to the maturity of any Equipment Obligation, the balance of the rental or other payments remaining to be paid thereunder or secured thereby or to refinance the same by entering into a new Equipment Obligation.

SECTION 6. The Railroad Company will well and truly pay and discharge or cause to be paid and discharged upon presentation thereof for payment when due the principal of all obligations having a lien on the mortgaged property or any part thereof prior to the lien of the Mortgage; and until paid or discharged at maturity or otherwise it will pay or cause to be paid the interest payable thereon at the time and at the place or places set forth therein or in the coupons attached thereto; and it will prevent any default or other thing from happening whereby the right might arise to enforce by foreclosure or otherwise any such obligations; provided, however, that the Railroad Company may extend or renew any such obligations.

In all cases in which, pursuant to the requirements of any mortgage or other instrument constituting a lien prior to the lien of the Mortgage, cash, securities, obligations or rights which would otherwise be required to be deposited with the Trustee are deposited with the trustee or mortgagee under such mortgage or other instrument, the Railroad Company will forthwith, upon the discharge and cancellation of such mortgage or other instrument (subject to the obligation of

the Railroad Company, if any, to cause the same to be deposited under any other such mortgage or other instrument), cause to be deposited with the Trustee any and all such cash, securities, obligations or rights remaining at the time of such discharge and cancellation with the trustee or mortgagee of the mortgage or other instrument so discharged and cancelled. The Railroad Company hereby authorizes and directs the trustee or mortgagee under each such mortgage or other instrument, upon such discharge and cancellation thereof, to deposit with the Trustee all such cash, securities, obligations or rights so remaining. The Railroad Company covenants to deliver a copy of the Mortgage to the trustee or mortgagee under each such mortgage or other instrument and furnish the Trustee with evidence of such delivery.

SECTION 7. The Railroad Company, from time to time, will pay and discharge, or cause to be paid and discharged, all taxes, assessments and governmental charges (the lien whereof would be prior to the lien of the Mortgage) lawfully imposed upon the mortgaged property or upon any part thereof, or upon the income and profits thereof, and also all taxes, assessments and governmental charges lawfully imposed upon the lien or interest of the Trustee in respect of the mortgaged property or the income thereof, so that the lien and priority of the Mortgage shall be fully preserved at the cost of the Railroad Company without expense to the Trustee or the Bondholders; provided, however, that the Railroad Company shall not be required to pay any such taxes, assessments or governmental charges (i) so long as in good faith the validity or the amount thereof shall be contested by appropriate legal proceedings, unless thereby, in the judgment of the Trustee, the security afforded by the Mortgage will be materially impaired or endangered, or (ii) on property it has abandoned pursuant to permission granted by the Interstate

Commerce Commission or other public regulatory body having jurisdiction in the premises, or (iii) on property it has abandoned where no public regulatory body has jurisdiction if the property abandoned is no longer necessary for the maintenance or operation of the lines of railroad subject to the lien of the Mortgage.

SECTION 8. The Railroad Company, from time to time as the same shall become due and payable, will observe and perform all of its obligations, and will pay and discharge all sums payable, under or by virtue of any lease or trackage agreement held by it and subject to the lien of the Mortgage and which is reasonably necessary for the maintenance and operation of the lines of railroad subject to the lien of the Mortgage, and will not suffer or permit any default for which such lease or trackage agreement may be terminated, so that, subject to the provisions of Articles XI and XII hereof, the interest of the Railroad Company in all such leasehold estates or trackage agreements shall be preserved unimpaired as security for the Bonds and coupons hereby secured.

Nothing in this Section 8 contained shall require the Railroad Company to make any such payments or to observe any such obligations so long as the Railroad Company in good faith shall contest its liability for any such payments or its duty to observe any such obligations, unless in the opinion of the Trustee such action will materially impair or endanger the interests of the Bondholders.

SECTION 9. Subject to the provisions of Articles XI and XII, the Railroad Company covenants and agrees that the Mortgage is and always will be kept a lien upon all of the mortgaged property, subject only to the liens prior thereto specified or referred to in the granting clauses hereof, the

right, charge, lien or title of Equipment Obligations, Permitted Encumbrances, and purchase money liens on property acquired after the date hereof and liens thereon existing at the time of such acquisition, and that it will not voluntarily create, or suffer to be created or to arise, any other lien or charge having priority to, preference over or parity with the lien of the Mortgage upon the mortgaged property, or any part thereof, or upon the income thereof; and that, within 6 months after the same shall be payable, it will pay or cause to be discharged, or will make adequate provision for the satisfaction or discharge of, all lawful claims and demands of mechanics, laborers and others, which, if unpaid, might by law be given precedence over the Mortgage as a lien or charge upon the mortgaged property or any part thereof, or the income thereof; provided, however, that the Railroad Company shall not be required to pay any such debt, lien or charge so long as it shall in good faith, by appropriate legal proceedings, contest the validity thereof or the amount thereof unless thereby, in the opinion of the Trustee, the interests of the Bondholders will be materially impaired or endangered.

SECTION 10. Subject to the provisions of Articles XI and XII, and to the extent needful and proper for the efficient and economic operation of its properties, the Railroad Company will at all times diligently maintain, preserve and keep all of the rights and franchises granted to it or conferred upon it, maintain, preserve and keep its railroads, fixtures and appurtenances in good repair, working order and condition and from time to time make all needful and proper repairs thereto and renewals and replacements thereof, and keep the lines of railroad subject to the Mortgage supplied with Equipment, machinery, tools and other supplies, maintain the same in good order and condition, reasonable wear and tear excepted, and from time to time make all needful

and proper repairs thereto and renewals and replacements thereof.

SECTION 11. Subject to the terms and provisions of Articles XI and XII, the Railroad Company will maintain its property, rights and franchises and continue the full enjoyment thereof so as to maintain the general continuity of its lines of railroad between the principal points served by it as of the date of the execution and delivery of the Mortgage and from time to time thereafter.

SECTION 12. The Railroad Company will forthwith upon acquisition deposit and pledge with the Trustee, as further security for the Bonds, all Securities hereafter acquired by it except (i) Special Securities, (ii) Debt Securities hereafter acquired by the Railroad Company in reimbursement of expenditures for Additions and Betterments to the properties of Chicago, Terre Haute and Southeastern Railway Company, and (iii) Securities deposited with the trustee or mortgagee of any Prior Lien or required to be so deposited by the terms of such Prior Lien; and that upon cancellation or release of any Prior Lien, all such Securities then held by the trustee or mortgagee thereunder will be forthwith deposited and pledged with the Trustee unless then required to be deposited or pledged or held under another lien prior to the lien of the Mortgage.

So long as the First Mortgage shall remain a lien on the mortgaged property, the deposit and pledge by the Railroad Company of such Securities with the trustee of the First Mortgage pursuant to the provisions of Section 12 of Article IX of the First Mortgage, as evidenced by a statement of the trustee of the First Mortgage certifying to such pledge and deposit filed with the Trustee, shall constitute a compliance by the Railroad Company with the provisions of this Section 12.

SECTION 13. The Railroad Company will not procure the authentication and delivery of any Bonds hereunder, the release of any property herefrom, or the withdrawal, payment or application of any cash held by the Trustee under any provision of the Mortgage, except upon compliance by the Railroad Company with the applicable provisions of the Mortgage; and will not issue any other obligations or securities except common stock for the purpose of capitalizing, or reimbursing the Railroad Company for, any expenditures from the Reserve and Retirement Fund or the Additions and Betterments Fund.

The Railroad Company will not procure the authentication and delivery of any Bonds hereunder, the release of any property herefrom, or the withdrawal, payment or application of any cash held by the Trustee under any provision of the Mortgage, on the basis of Additions and Betterments subject to any Prior Lien if after giving effect thereto the Cost of Additions and Betterments then subject to liens securing Prior Lien Bonds would exceed 10% of the aggregate of the principal amount of such Prior Lien Bonds and the principal amount of Bonds then outstanding.

SECTION 14. The Railroad Company will not increase or permit to be increase in principal amount any of its obligations (other than Bonds, First Mortgage Bonds, Equipment Obligations and Permitted Encumbrances) which are at the time of the making or assuming of such obligations secured by a lien on the mortgaged property, or any part thereof, prior to or on a parity with the lien of the Mortgage unless the obligations representing such increase are forthwith deposited and pledged with the trustee of the First Mortgage or with the Trustee to be held subject to the provisions of Article X.

SECTION 15. The Railroad Company will maintain a record of all Equipment and will furnish to the Trustee at least once in each period of 3 years following the date of the execution and delivery of the Mortgage a statement of the number of units by classes of said Equipment, and showing separately the Equipment that is held under or subject to Equipment Obligations and the expenditures therefor, and specifying the amount and maturities of all such Equipment Obligations.

SECTION 16. The Railroad Company will cause the Mortgage and every supplemental indenture or instrument purporting to create a lien upon the mortgaged property to secure the Bonds, to be recorded and filed and re-recorded and refiled to the extent necessary to make effective and maintain the lien intended to be created thereby, and will, on or before April 1 in each year, beginning with the year 1946, furnish to the Trustee an Opinion of Counsel stating either that in the opinion of such counsel the Mortgage and all supplemental indentures or other instruments supplemental thereto have been properly recorded and filed and re-recorded and refiled, as the case may be, so as to make effective and maintain the lien intended to be created thereby, or that in the opinion of such counsel no such action is necessary to make such lien effective and to maintain the same.

SECTION 17. The Railroad Company will cause all of the property at any time subject to the lien of the Mortgage and which is of a character usually insured by railroad companies to be kept insured in such manner and to such extent as is customary and usual in the operation of railroad companies in the territory served by the Railroad Company. On or before April 1, 1946, and on or before April 1 in each year thereafter, and at any other time upon the request of the Trustee, the Railroad Company will furnish to the Trus-

tee an Officers' Certificate stating in general the character and extent of the insurance then maintained by the Railroad Company and stating that the same complies in all respects with the requirements of this Section 17.

If the proceeds from any insurance on the mortgaged property shall exceed the sum of $100,000 in respect of any one loss, such proceeds shall, subject to the requirements of the First Mortgage or any Prior Lien or Equipment Obligation on such property, be paid by the Railroad Company to the Trustee, accompanied by an Officers' Certificate as required by Section 22 of this Article IX, and shall be held and disposed of by the Trustee as in the case of moneys deposited upon the release of mortgaged property as provided in Section 7 of Article XI.

If such proceeds be $100,000 or less in respect of any one loss, they shall be applied by the Railroad Company to the repair, restoration or replacement of the property damaged or destroyed or to the acquisition or construction of Additions and Betterments. Any property acquired by the Railroad Company out of the proceeds of insurance as aforesaid and any and all repairs, restorations, replacements, Additions and Betterments acquired or constructed out of such proceeds, subject to the requirements of the First Mortgage or any Prior Lien or Equipment Obligation on the property with respect to which such insurance was collected, shall become and be subject to the Mortgage as fully as though specifically mortgaged or assigned hereby, but, in the case of property repaired or restored, only in the same manner and to the same extent as the property damaged or destroyed with respect to which such insurance was collected.

SECTION 18. The Railroad Company will permit the Trustee, through its agents, to inspect the mortgaged property

or any portion thereof at any time and from time to time, and will comply with all reasonable requests of the Trustee to furnish such information as the Railroad Company may have with respect to the mortgaged property.

SECTION 19. If any Additions and Betterments located on any leasehold shall have been Bonded, there shall be deposited with the Trustee, accompanied by an Officers' Certificate as required by Section 22 of this Article IX, upon the termination of such leasehold, subject to the requirements of the First Mortgage, all amounts paid to the Railroad Company pursuant to the terms of such lease in reimbursement therefor. All amounts so received by the Trustee shall be held and disposed of as in the case of moneys deposited upon the release of mortgaged property as provided in Section 7 of Article XI.

SECTION 20. As and when there shall be delivered to the trustee under the First Mortgage pursuant to any provision thereof, any report, statement, certificate, opinion, copy of resolution, deed, conveyance, assignment or other document or proof, the Railroad Company will deliver a counterpart thereof to the Trustee, unless the same document or proof has been delivered to the Trustee pursuant to the provisions of the Mortgage.

SECTION 21. The Railroad Company will not pledge or hypothecate any Bonds or First Mortgage Bonds to secure any indebtedness created, assumed or guaranteed, directly or indirectly, by the Railroad Company (a) in an aggregate principal amount in excess of 150% of the principal amount of such indebtedness, and (b) unless and until the Railroad Company shall deliver to the Trustee a Certified Resolution

authorizing such pledge or hypothecation, which Resolution shall have been adopted by the affirmative action of not less than two-thirds of the whole Board of Directors.

SECTION 22. Whenever the Railroad Company shall deposit with the Trustee the proceeds of any insurance as provided in Section 17 of this Article IX or the amounts paid to the Railroad Company in reimbursement for Additions and Betterments upon termination of any leasehold as provided in Section 19 of this Article IX, such deposit shall be accompanied by an Officers' Certificate, dated not more than 30 days prior to the delivery thereof to the Trustee, stating the circumstances of such deposit and the source of the moneys then being deposited.

SECTION 23. The Railroad Company will deliver to the Trustee at the time of the distribution thereof a copy of each annual report and financial statement distributed by the Railroad Company to its shareholders, beginning with the annual report for the year 1945.

SECTION 24. The Railroad Company covenants that all funds made available to it after January 1, 1944, from all or any of the following sources shall, unless deposited with the trustee or mortgagee under a Prior Lien pursuant to the requirements of such Prior Lien, be applied only to provide for Gross Expenditures: (i) proceeds of insurance on the mortgaged property not deposited or required to be deposited with the Trustee, (ii) salvage recovered from mortgaged property retired, (iii) proceeds of property sold in accordance with the provisions of Article XI and not deposited or required to be deposited with the Trustee, and (iv) service losses charged to depreciation and amortization reserves on account of depreciable road property retired and replaced.

SECTION 25. The Railroad Company covenants that it will, on or before March 15 of each year, beginning with the year 1946, publish a notice stating the amount of interest payable on the Bonds of Series A or that no interest is payable on the Bonds of Series A, and the amount of interest payable on the Bonds of Series B or that no interest is payable on the Bonds of Series B, on the succeeding April 1, once in a Daily Newspaper in the Borough of Manhattan, City of New York, New York, and once in a Daily Newspaper in the City of Chicago, Illinois. A copy of such notice shall be mailed by or on behalf of the Railroad Company to all registered holders of coupon Bonds registered as to principal and of registered Bonds without coupons, at their last addresses as they shall appear upon the bond registry books.

ARTICLE X

PLEDGED SECURITIES

SECTION 1. Securities deposited and pledged under the Mortgage, if not already in bearer form, or issued in the name of the Trustee, shall be duly endorsed in blank for transfer or accompanied by appropriate instruments of assignment and transfer in blank. Any Securities deposited and pledged under the Mortgage may if the Trustee so determines, and shall if the Railroad Company so requests, be stamped by the Trustee with an appropriate legend to the effect that the same are held in trust for the purposes declared in the Mortgage. The Trustee shall not be obligated to examine or pass upon the validity or genuineness of any Securities and their accompanying assignments tendered for deposit and pledge with it, including any mentioned and described in the granting clauses hereof, but if questioned the Trustee shall be entitled to rely upon Opinions of Counsel that any Securities so deposited and pledged are genuine and valid and what they purport to be and that any endorsements or assignments thereof are effective, genuine and valid.

All Debt Securities deposited and pledged under the Mortgage may be in temporary or definitive form, and shall be accompanied by all appropriate coupons appertaining thereto, if any, and, if susceptible of registration as to principal or interest, may if the Trustee so determines, and shall if the Railroad Company so requests, be registered, or exchanged for Debt Securities issued, in the name of the Trustee or its nominee.

SECTION 2. Unless and until an Event of Default shall have occurred and be continuing, and except as in the Mortgage otherwise expressly provided:

(a) The Railroad Company shall be entitled to collect and retain for its own use all earned cash dividends which may be declared on any Stock deposited and pledged hereunder and all sums which may become due and payable for interest upon Debt Securities so deposited and pledged; and the Trustee, upon the written request of the Railroad Company, shall deliver to the Railroad Company necessary and suitable assignments and orders for the payment to it or upon its order of all such earned cash dividends and shall deliver to it all coupons pertaining to any such Debt Securities, or suitable assignments and orders for the payment to it or upon its order of all such interest, as and when such coupons or interest shall become due and payable or at any time within 30 days prior thereto; the Trustee, upon the written request of the Railroad Company, shall pay over to the Railroad Company all sums which may be received by the Trustee representing interest and earned cash dividends; and the Trustee, upon written notice from the Railroad Company that any instalment of interest has been paid on any Debt Security payable to bearer but without interest coupons, shall note or permit to be noted thereon the fact of such payment;

(b) The Trustee (except with consent of the Railroad Company or as otherwise expressly authorized by the Mortgage), shall not be entitled to enforce payment of the interest on any Debt Security deposited and pledged hereunder, or to enforce any provision of or exercise any right under any mortgage or other instrument pursuant to which such Debt Security was issued or by which the same is secured;

provided, however, and it is hereby declared and agreed that, except as in the Mortgage otherwise expressly provided:

(1) The Railroad Company shall not be entitled to collect and the Trustee shall not pay over to the Railroad Company, and if collected by the Railroad Company it shall forthwith pay over to the Trustee, with respect to any Securities deposited and pledged or required to be deposited and pledged hereunder, (i) the principal, in whole or in part, of any Debt Security; (ii) any interest on any Debt Security which shall have been paid out of the proceeds of any sale or condemnation of, or the proceeds of insurance on, the property covered by a mortgage or other lien securing such Debt Security, or out of the proceeds of sale of any property of the corporation liable upon such Debt Security in case of the dissolution, liquidation or winding up of such corporation, or out of any other proceeds of capital assets, it being the intent of the Mortgage that the Railroad Company shall be entitled to receive only interest paid out of revenues, rents, earnings, profits, or income; (iii) any amounts paid on redemption of any Security, other than on account of accrued interest or dividends; (iv) any liquidation dividends consequent upon the dissolution, or total or partial liquidation or winding up, or reduction of Stock, of any corporation; and (v) any other dividends, whether payable in Stock, cash or property, except only earned cash dividends;

(2) The Railroad Company shall not collect any such dividends, coupons or interest by legal proceedings or by the enforcement of any security therefor, except upon at least 30 days' prior written notice to the Trustee;

(3) Until actually paid, cancelled or discharged, each coupon or right to interest or dividends shall remain subject to the lien of the Mortgage, and the Railroad Company shall not sell, assign or transfer any such coupon or right to interest or dividends;

(4) The Railroad Company may release and discharge, in whole or in part, any and all claims for interest on any Railroad Subsidiary Bonds deposited and

pledged hereunder, when and as such interest becomes due; and

(5) The Trustee shall be entitled to assume that all such interest has been or will be paid out of revenues, rents, earnings, profits, or income and that all dividends paid in cash are or will be earned cash dividends, unless and until the Trustee is notified in writing to the contrary by the payor, its agent, the Railroad Company or one or more Bondholders.

SECTION 3. Unless and until an Event of Default shall have occurred and be continuing, the Railroad Company shall have the right to vote and give consents in respect of all Securities deposited and pledged hereunder for all purposes not contrary to the provisions of the Mortgage or inconsistent therewith, and to consent to, ratify or waive notice of any and all meetings, with the same force and effect as though such Securities were not subject to the lien hereof; and the Trustee, in respect of Securities issued in its name or in the name of its nominee or nominees, shall upon the written request of the Railroad Company give suitable waivers of notice and consents and deliver to the Railroad Company, or to its nominee or nominees, suitable powers of attorney or proxies with or without power of substitution and either generally or for such one or more objects as such proxy shall specify. The Railroad Company covenants that it will not vote or permit to be voted or give or permit to be given any consent in respect of any such Securities for any purpose contrary to the provisions of the Mortgage or of the First Mortgage or inconsistent therewith.

The Trustee, with the written consent of the Railroad Company, evidenced by a Certified Resolution delivered to the Trustee, and without such consent if an Event of Default shall have occurred and be continuing

(a) may vote or give consents in respect of any Securities deposited and pledged hereunder and authorize such Securities to be voted and such consents to be given and may take such other action as to the Trustee, in its discretion, shall seem advisable to protect the interests of the Trustee and of the Bondholders in respect of any Securities subject to the lien hereof; and

(b) may in respect of any such Securities join in or become party to any plan of reorganization or readjustment (whether voluntary or involuntary) of the corporation issuing such Securities and deposit such Securities under such plan, and may make any exchange, substitution, cancellation or surrender of Securities required by any such plan and take such action with respect to Securities subject to the lien hereof as may be required by such plan for the accomplishment thereof. All new Securities issued under any such plan in exchange for Securities previously deposited and pledged hereunder shall be deposited with the Trustee and held by it under and for the purposes expressed in the Mortgage.

SECTION 4. In case at any time

(a) default shall be made in the payment of the principal of or interest on any Debt Security deposited and pledged hereunder, or

(b) default shall be made in any of the covenants, terms or conditions contained in any such Debt Security or the mortgage or other instrument securing the same or pursuant to which the same shall have been issued, or

(c) the right shall arise to enforce, by foreclosure or otherwise, any such mortgage or other instrument,

then, and in any such case, upon the written request of the Railroad Company, accompanied by a Certified Resolution

authorizing the same, and without such request if an Event of Default shall have occurred and be continuing, the Trustee, as the holder of such Debt Security, may in its discretion exercise all rights of the holder thereof and all rights under the mortgage or other instrument securing the same, or pursuant to which it was issued, and cause such proceedings as may be approved by counsel to be instituted and prosecuted in a court of competent jurisdiction to enforce the payment of the principal and interest on such Debt Security and the performance of the covenants, terms or conditions therein and in such mortgage or other instrument contained and the foreclosure or other enforcement of such mortgage or other instrument, or otherwise.

SECTION 5. Unless an Event of Default shall have occurred and be continuing, the following transactions may be carried out and consummated:

(a) The renewal or extension of any Debt Security deposited and pledged hereunder at the same or a lower or higher rate of interest;

(b) The renewal or extension of any mortgage or other lien or instrument securing any Debt Securities deposited and pledged hereunder; and

(c) The issue in substitution for any Securities of a Railroad Subsidiary deposited and pledged hereunder of other Securities issued by the same Railroad Subsidiary which, except in the case of Common Stock, shall be of the same or a greater aggregate principal amount or liquidation value, shall be secured by the same or an equivalent or prior lien or entitle the holder to an equivalent or superior liquidation and dividend preference, and shall bear the same or a higher or lower rate of interest or preferred dividend;

subject, however, to the following terms and conditions:

(1) All Securities so renewed or extended (if replaced by new Securities) and all Securities for which new Securities are substituted shall be delivered by the Trustee to the corporation issuing the same solely for retirement.

(2) All Securities so issued in renewal, extension or substitution shall forthwith upon the issue thereof be deposited and pledged hereunder to the same extent and in the same manner as the Securities renewed or extended or for which they are substituted.

(3) No such substitution shall be made if it will reduce the percentage of the number of shares of any class of Stock of any Railroad Subsidiary deposited and pledged hereunder below 90% of the total outstanding shares of such class.

(4) No such substitution shall be made if the substituted Securities are of an issue junior to the Securities to be retired.

(5) In each such case the Trustee shall be furnished with the following:

(A) An Officers' Certificate stating in substance as follows: (i) the Securities (briefly described) to be renewed, extended or retired and the terms of such renewal, extension or retirement; (ii) the securities (briefly described), if any, to be issued in substitution; (iii) that the renewal, extension or substitution will be to the benefit and advantage of the Railroad Company and will not be detrimental to the interest or security of the Bondholders; (iv) whether the Securities to be renewed or extended or for which new Securities are to be substituted are Securities of a Railroad Subsidiary; (v) that if such new Securities are to be substituted for Securities of a Railroad Subsidiary such substitution will not, after the deposit and pledge of such new Securities with the Trustee, reduce the number of shares of any class of Stock of such Railroad Subsidiary then deposited and pledged

hereunder below 90% of the total outstanding shares of such class; (vi) that the Securities, if any, to be issued in substitution will not be junior to the Securities to be retired; and (vii) that no Event of Default has occurred and is continuing.

(B) An Opinion of Counsel that such renewal, extension or substitution is in accordance with the provisions of the Mortgage and that any Securities so to be renewed or extended will, upon such renewal or extension, and any new Securities to be issued will, upon the issue and delivery thereof to the Railroad Company, be validly issued and outstanding and what they purport to be and validly owned by the Railroad Company; that whatever consent, authorization or approval on the part of any governmental authority is requisite for such ownership and pledge has been obtained; that all shares of Stock, if any, included in such Securities are fully paid and nonassessable; and that upon the deposit and pledge of said Securities hereunder the Mortgage will constitute a valid, enforceable and direct lien thereon, free and clear of liens prior thereto.

Upon receipt of the instruments specified in clauses (A) and (B), and a Certified Resolution requesting any such extension, renewal or substitution, the Trustee shall permit the same and take any other action necessary to effect any such extension, renewal or substitution.

SECTION 6. The Trustee may sell, assign, transfer and deliver so many shares of the Stock of any corporation whose Stock is deposited and pledged under the Mortgage as may be necessary to qualify persons to act as directors of, or in any other official relation to, such corporation. In every such case the Railroad Company shall make such arrangements with the Trustee as shall be deemed necessary by the Trustee for the protection of the trusts hereunder.

SECTION 7. In case a corporation any of the Securities of which shall be deposited and pledged under the Mortgage shall be consolidated with or merged into, or shall convey all or substantially all of its properties to, the Railroad Company, the Securities of such corporation that are deposited and pledged under the Mortgage shall be surrendered to the consolidated corporation or to the Railroad Company, as the case may be, but only if, as evidenced by an Opinion of Counsel furnished to the Trustee, (a) by virtue of such consolidation or merger and the application of the provisions of Article XII the lien of the Mortgage has extended to the property of such corporation the Securities of which are so surrendered, and (b) in the case of any Debt Securities so surrendered which are secured by a lien on the property of such corporation, the lien of the Mortgage resulting from such consolidation or merger is substantially equivalent to the lien securing such Debt Securities.

SECTION 8. In case at any time

(a) any corporation, the Securities of which shall be deposited and pledged hereunder, shall be dissolved or liquidated, or

(b) all or any of the property of any such corporation shall be sold at any judicial sale, or

(c) any of the property covered by any mortgage securing any Debt Security deposited and pledged under the Mortgage shall be sold in foreclosure proceedings or other proceedings for the enforcement of such mortgage or the Debt Security thereby secured,

then, and in any such case, if the property of such dissolved or liquidating corporation or the property sold can be acquired by crediting on the Securities so pledged under the Mortgage any sum accruing or to be received thereon out of

the proceeds of such property, and by paying not more than 10% of the price of such property in cash (or more than 10% if the Railroad Company or the holders of 25% in principal amount of the Outstanding Bonds shall so request), the Trustee in its discretion may, and if requested in writing by the Railroad Company or the holders of 25% in principal amount of the Outstanding Bonds and upon being provided with the amount of cash necessary therefor (whether such amount be more or less than 10% of the price of such property) and security or indemnity satisfactory to it against any expense or liability on its part, shall, purchase or cause to be purchased such property, either in the name or on behalf of the Trustee or of the Railroad Company or of purchasing trustees, as the Trustee may determine, and the Trustee shall use, or permit the Railroad Company to use, such Securities so far as may be permissible to make payment for such property. In the event of any such purchase, the Trustee shall take such steps as it may deem proper to cause such property either to be vested in the Railroad Company and subjected to the direct lien of the Mortgage or in some other corporation with power to acquire and operate such property. The Railroad Company covenants that, if such property is vested in some other corporation with power to acquire and operate such property, all Securities of such other corporation acquired directly or indirectly through such use of the pledged Securities will be deposited and pledged under the Mortgage.

SECTION 9. The Railroad Company covenants that, except as permitted by paragraph (b) of Section 3 of this Article X, no Railroad Subsidiary will increase the amount of its outstanding shares of Stock of any class unless after such increase the percentage of shares outstanding necessary to meet the requirements of a Railroad Subsidiary shall be pledged and deposited with the trustee under the First Mort-

gage or with the Trustee hereunder. In the event that the outstanding amount of any class of Stock of any Railroad Subsidiary shall be reduced, the Trustee, upon the written request of the Railroad Company, shall surrender for cancellation the certificates evidencing such part of the shares of such class of Stock then pledged and deposited hereunder as shall be proportionate to the amount of such reduction.

SECTION 10. The Railroad Company covenants and agrees that no Railroad Subsidiary will create or increase the amount of its debts secured by lien equal or prior in rank to the lien of any bonds of such Railroad Subsidiary pledged under the Mortgage, unless the Debt Securities for the debt so created or the increase thereof are also pledged with the Trustee hereunder or with the trustee under the First Mortgage.

SECTION 11. The Railroad Company covenants that no Railroad Subsidiary will make any sale, exchange or other disposition of its property contrary to the provisions of Part B of Section 1 of Article XI and that, except as otherwise expressly provided in the Mortgage, no Railroad Subsidiary will at any time sell, exchange or otherwise dispose of its property, real or personal, or any part thereof, except for adequate consideration and unless the Railroad Company shall first file with the Trustee the following:

(a) An Officers' Certificate dated not more than 30 days prior to the delivery thereof, stating

(1) that such Railroad Subsidiary desires to sell or exchange property, briefly described, or has contracted so to do, for a consideration described in the Certificate (which consideration may be cash or property or both), and that such consideration represents, in the opinion of the signers of the Certificate, an adequate

consideration to such Railroad Subsidiary for the property to be sold or exchanged;

(2) a brief description of the property, if any, to be received as consideration in whole or in part, and stating that such property consists of railroad lines, bridges or terminals, or other property appurtenant to or useful to the railroad lines, bridges or terminals, owned and operated by such Railroad Subsidiary; and

(3) that the property to be sold or exchanged is no longer necessary or advantageous in the business of such Railroad Subsidiary, and either (i) that the substantial integrity and efficiency of the lines of railroad, bridges and terminals of such Railroad Subsidiary will not be impaired by such sale or exchange, or (ii) that the sale or exchange is made in compliance with the provisions of Part B of Section 1 of Article XI.

(b) An Opinion of Counsel (in case the Certificate states that the consideration to the Railroad Subsidiary consists of property in whole or in part) that such property to be received by the Railroad Subsidiary is free and clear of liens other than Permitted Encumbrances.

Sales, exchanges and other dispositions of its property may be made by any Railroad Subsidiary in any calendar year without the filing of the instruments provided for in this Section 11, unless and until the value of the property disposed of by such Railroad Subsidiary in that year has exceeded or will exceed $25,000.

The Railroad Company covenants and agrees that within 15 days after the sale or disposition of any property by a Railroad Subsidiary as to which the instruments provided by this Section 11 shall be required, the Railroad Company will deposit or cause to be deposited with the Trustee an amount equal to the amount of any cash received by such Railroad Subsidiary for the property so sold, unless such Railroad Subsidiary has deposited such amount with the trustee under

the First Mortgage or the trustee or mortgagee of a mortgage securing Railroad Subsidiary Bonds of such Railroad Subsidiary in accordance with the requirements of such mortgage, as to which such deposit the Trustee shall be furnished with a statement of the trustee or mortgagee of such mortgage certifying thereto.

SECTION 12. The Railroad Company may, unless an Event of Default shall have occurred or be continuing, sell the Securities of any corporation which are deposited and pledged under the Mortgage, except Prior Lien Bonds, but only upon and subject to the following conditions:

(a) All Securities of such corporation pledged hereunder shall be sold simultaneously.

(b) The Trustee shall be furnished with an Officers' Certificate dated not more than 30 days prior to the delivery thereof and setting forth:

(1) A description of the Securities to be disposed of by the Railroad Company, a statement that the Securities so described include all Securities of such corporation pledged hereunder and a statement as to whether or not such corporation is a Railroad Subsidiary.

(2) A brief statement of the price or consideration to be received by the Railroad Company (which consideration may be cash, or cash and purchase money obligations secured by a pledge of the Securities to be sold) and a statement that the amount of such consideration is not less than the fair value to the Railroad Company of the Securities to be sold and represents an adequate consideration therefor. None of such purchase money obligations shall mature more than 5 years from the date of issue, and the aggregate principal amount thereof shall not exceed 60% of the total amount of such consideration.

(3) If the Securities to be disposed of are Securities of a Railroad Subsidiary, a statement that such sale is subject to the provisions of Part B of Section 1 of Article XI accompanied by showings in compliance therewith, or a statement that the provisions of said Part B are not applicable to such sale.

(4) That no Event of Default has occurred and is continuing.

(c) The consideration stated in the Certificate provided for in subdivision (b) of this Section 12 to be received by the Railroad Company shall be deposited and pledged with the Trustee.

(d) The Trustee shall be furnished with an Opinion of Counsel stating that (1) such sale is in accordance with the provisions of the Mortgage, (2) the Trustee is authorized under the terms of the Mortgage to comply with the request of the Railroad Company in consummation of the sale, (3) any purchase money obligations mentioned in the Certificate provided for in subdivision (b) of this Section 12 are valid obligations, secured by a valid and enforceable pledge of the Securities to be sold, free and clear of prior liens, (4) such pledge contains appropriate provision for the security and protection of the Bonds, and (5) all necessary consent or approval of all governmental authorities for the sale and acquisition of such Securities has been obtained or that no such consent or approval is necessary; and said opinion shall be accompanied by a certified copy of any such consent or approval specified in said opinion to be necessary.

(e) The Trustee shall be furnished with a Certified Resolution authorizing the sale of the Securities mentioned in the Certificate provided for in subdivision (b) of this Section 12, and requesting the release thereof from the lien of the Mortgage.

Upon receipt by the Trustee of the instruments mentioned in subdivisions (b), (d) and (e) of this Section 12, and the consideration to be received by the Railroad Company as therein stated, the Trustee shall release from the lien of the Mortgage, and deliver to or upon the written order of the Railroad Company, all Securities so to be sold at the time held by the Trustee.

SECTION 13. In case an Event of Default shall have occurred and be continuing, the Railroad Company may do any of the things authorized to be done by it in Sections 2, 3, 5, 7, 8 and 12 of this Article X upon compliance by it with the respective provisions of said sections, if the Trustee, in the exercise of its discretion, in writing expressly authorizes or assents to such action. The Trustee shall so authorize or assent to such action if requested by the holders of a majority in principal amount of the Outstanding Bonds.

SECTION 14. All moneys received by the Trustee in respect of any Securities deposited and pledged hereunder, unless the Railroad Company shall be entitled to receive the same under the provisions of Section 2 of this Article X, shall be held, paid out or applied by it as in the case of money deposited upon the release of mortgaged property, in the manner provided in Section 7 of Article XI.

SECTION 15. The Railroad Company covenants and agrees that forthwith on demand of the Trustee it will pay, or will provide for in a manner satisfactory to the Trustee, all expenditures incurred by the Trustee under any of the provisions of this Article X, including all sums required to obtain and perfect the ownership and title to any property which the Trustee shall cause or authorize to be purchased pursuant to any provision of this Article X; and the Trustee in its discretion, without impairment of or prejudice to any of its rights under the Mortgage by reason of any default of the Railroad Company, may but shall not be obligated to advance any or all such expenses and such other moneys as may be required, or may procure such advances to be made by others, and for such advances made by the Trustee or by others at its request, with interest thereon at the rate of 4% per annum, the Trustee shall have a lien upon the mortgaged property in priority to the lien of the Bonds, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

SECTION 16. The Railroad Company may at any time sell, and the Trustee shall release from the lien of the Mortgage, any or all Securities pledged and deposited with the trustee of the First Mortgage upon delivery to the Trustee of a Certified Resolution requesting such release accompanied by a statement in writing of the trustee of the First Mortgage certifying that such Securities have been released from the lien of the First Mortgage in accordance with the terms and provisions thereof.

ARTICLE XI

POSSESSION, USE AND RELEASE OF PROPERTY

SECTION 1. While the Railroad Company shall remain in possession of the mortgaged property, it shall be entitled to manage, operate, use and enjoy all and singular the property subject to the Mortgage (except any cash or Securities deposited or pledged or required to be deposited or pledged with the Trustee under the terms of the Mortgage or with the trustee under the terms of the First Mortgage) and to receive, take and use the rents, incomes and profits thereof subject to the terms of the Mortgage. The subsequent provisions of this Section 1 are for the purpose of permitting the advantageous use of the property subject to the Mortgage in the operation and management of the business so as most judiciously to maintain the value of such property of the Railroad Company and the value of the security for the Bonds.

PART A. While remaining in possession of the mortgaged property, the Railroad Company shall be entitled in the usual and ordinary conduct of its business:

(a) to alter, repair, dismantle when no longer useful, replace, change and add to its buildings, roadways, trackage, Equipment, materials, supplies and any other physical property;

(b) to make any change in the location of its lines, tracks, station houses, buildings or other structures situated upon or comprising any part of the property subject to the Mortgage to other premises, if said lines, tracks, station houses, buildings, structures and the premises whereon they shall be relocated shall be or concurrently become subject to the lien of the Mortgage to the same extent and with the same priority of lien as before such relocation; and

(c) to modify the rights under, or to abandon or terminate, any trackage, terminal, operating or other contract, agreement or lease, easement, franchise, license, authority or permit under which the Railroad Company may now or hereafter conduct its railroad operations; provided, in the case of any modification, that the same does not substantially impair the rights of the Railroad Company in its railroad operations, shorten the term of any leasehold on which are located Additions and Betterments which have been Bonded or Otherwise Financed, or in the judgment of the Railroad Company impair the security or interests of the Bondholders, and in the case of any abandonment or termination, that such rights are no longer required for the railroad operations of the Railroad Company, and that rights of operation, substantially equivalent as to scope and term, are otherwise owned or are concurrently to be acquired and subjected to the lien of the Mortgage to the same extent and with the same priority of lien as existed prior to the modification, abandonment or termination.

PART B. To increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within its own transportation system which is subject to the lien of the Mortgage, and by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, the Railroad Company, while remaining in possession of the mortgaged property, may, under the conditions and upon compliance with the provisions of Sections 2 and 3 of this Article XI to the extent applicable:

(a) Sell, exchange for other property, abandon, lease or otherwise dispose of any part, substantially less than all, of its lines of railroad (including any leasehold, easement, trackage right or other interest therein) sub-

ject to the lien of the Mortgage, but only if, at or prior to such sale, exchange, abandonment, lease or other disposition,

(1) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgment of the Board of Directors that

(i) such sale, exchange, abandonment, lease or other disposition will increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within the Railroad Company's own transportation system then subject to the lien of the Mortgage, or by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, and will not substantially impair the ability of the Railroad Company to handle the traffic of its transportation system, and

(ii) that the property so to be sold, exchanged, abandoned, leased or otherwise disposed of is no longer deemed necessary or expedient in the operation of its transportation system and that the security or interests of the Bondholders will not be impaired thereby; and

(2) there shall also be filed with the Trustee, as to any part of such lines of railroad (including any leasehold, trackage right or other interest therein) desired to be sold, exchanged, abandoned, leased or otherwise disposed of, an Officers' Certificate stating and setting forth the facts relied upon to show that

(i) such part of said lines of railroad is a branch or spur line, or is otherwise so separable from any main line serving principal points, that such sale, exchange, abandonment, lease

or other disposition will not break the continuity of such main line between the principal points served thereby, or

(ii) after said sale, exchange, abandonment, lease or other disposition there will remain at least one other route subject to the lien of the Mortgage between the principal points on such main line served by the part of such line to be sold, exchanged, abandoned, leased or otherwise disposed of, over which the traffic of its transportation system between such principal points may be handled with substantially equal facility, or

(iii) the Railroad Company has acquired, or upon such sale, exchange, abandonment, lease or other disposition will acquire, rights over lines of another railroad company through joint ownership, lease or trackage agreement whereby facilities will be available for general continuity of operation of its transportation system which are substantially equivalent to the facilities therefor of the lines of railroad to be sold, exchanged, abandoned, leased or otherwise disposed of, and that any such lease or trackage agreement, as evidenced by an Opinion of Counsel furnished to the Trustee, will extend at least beyond the latest date of maturity of any of the Bonds then outstanding and will not be subject to termination prior to its expiration date on account of any lien on the property covered thereby; and

(3) there shall be pledged with the Trustee or otherwise subjected to the lien of the Mortgage, subject only to Permitted Encumbrances in such manner as shall be deemed sufficient in an Opinion of Counsel furnished to the Trustee, any and all rights of joint ownership,

leases, and trackage agreements acquired by the Railroad Company and referred to in such Officers' Certificate pursuant to the preceding clause (2) (iii).

Any lease of property of the Railroad Company made pursuant to this subdivision (a) shall be made expressly subject to immediate termination by the Trustee at any time upon the occurrence of an Event of Default and at any time during the continuance thereof, and also by the purchaser of the property so leased upon any sale thereof, whether such sale be made under the power of sale hereby conferred or under judicial proceedings.

Notwithstanding the foregoing provisions of this Part B, any line or portion of a line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage may be released, sold, exchanged, abandoned, leased or otherwise disposed of upon compliance solely with the provisions of clause (1) of this subdivision (a), if such release, sale, exchange, abandonment, lease or other disposition is with the approval or direction of the holders of a majority of all Outsanding Bonds, such approval or direction being made and evidenced pursuant to the provisions of Article XIV and filed with the Trustee.

(b) Sell, exchange or otherwise dispose of an undivided interest in any part of any line of railroad, or in any bridge or terminal, which is subject to the lien of the Mortgage, or grant an easement over, or enter into a trackage agreement providing for the use by another railroad of, any such line of railroad, or bridge or terminal, with or without use of appurtenant shop or other operating and service facilities; and any such easement or trackage right may, but need not, extend for a longer period than the latest maturity of any of the Bonds then outstanding, and may, but need not, be subject to termination by the Trustee upon the occurrence or during the continuance of any Event of Default, or by the purchaser of any property to which the same relates upon any sale thereof by virtue of the power of sale hereby

conferred or under judicial proceedings; but in the case of each such sale, exchange or other disposition of an undivided interest or in case any such easement or trackage right shall extend for a longer period, as aforesaid, or is not subject to termination, as aforesaid, then at or prior thereto

(1) there shall be furnished to the Trustee an Opinion of Counsel that there has been adequately preserved to the Railroad Company the equal or prior right to the use of any such line of railroad, bridge, or terminal in which an undivided interest has been disposed of or as to which an easement or trackage right has been so granted, and to appurtenant facilities, if any, as to which a right of use has been so granted, and

(2) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgment of the Board of Directors, in the case of any such sale, exchange or other disposition, that the same is advantageous to the economical and efficient operation of the business of the Railroad Company, or, in the case of any such easement or trackage right agreement, that the terms thereof are reasonable and advantageous to the economical and efficient operation of the business of the Railroad Company and, in either case, that such transaction will not substantially impair the ability of the Railroad Company to handle the traffic of its transportation system subject only to the lien of the Mortgage and Permitted Encumbrances at or between the principal points served thereby nor impair the security or interests of the Bondholders.

In case an easement over, or a trackage agreement providing for the use by another railroad of, any part of any line of railroad or in any bridge or terminal shall be granted by the Railroad Company for a longer period than the latest maturity of any of the Bonds then outstanding or not be subject to termination by the Trustee

upon the occurrence or during the continuance of any Event of Default or by the purchaser of any property to which the same relates upon any sale thereof by virtue of the power of sale hereby conferred or under judicial proceedings, the Trustee shall, at the request of the Railroad Company and upon receiving the Opinion of Counsel and Certified Resolution with respect thereto as provided in this subdivision (b), execute and deliver a certificate or consent to the granting of such easement or trackage agreement.

Any principal point which is the terminus of any line of railroad of the Railroad Company subject to the lien of the Mortgage shall cease to be a principal point if, for a period of 5 successive years after the date of the Mortgage, traffic over the line, or a portion thereof serving such point designated as provided in the following sentence, has been such that the operation by the Railroad Company of such line or such designated portion, as the case may be, has been without profit during the whole of such period. Upon filing with the Trustee of an Officers' Certificate designating any such principal point and the line serving such point, or a specified portion thereof, and showing facts with respect to traffic and operation of such line or such specified portion thereof, as the case may be, fulfilling to the satisfaction of the Trustee the requirements of this paragraph, together with a Certified Resolution expressing the judgment of the Board of Directors that the principal point described in said Certificate is in fact no longer a principal point in the operation of such lines of railroad, then said principal point shall no longer be deemed or treated as a principal point on such line for any purpose under the provisions of this Part B.

The provisions and limitations of this Part B shall govern any sale by the Railroad Company, pursuant to the provisions of Article X, of the securities of any Railroad Subsidiary owning a connecting line of railroad or bridge which forms a part of the transportation

system of the Railroad Company, and any sale, exchange or other disposition by any Railroad Subsidiary, pursuant to the provisions of Article X, of property of such Railroad Subsidiary, to the same extent as though the property owned by such Railroad Subsidiary were owned by the Railroad Company.

Part C. In case any line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage is desired to be abandoned, prior to any such abandonment there shall be furnished to the Trustee, in addition to all other requirements of this Section 1, an Opinion of Counsel stating that any requisite approval of the Interstate Commerce Commission or other governmental authority having jurisdiction in the premises has been obtained for such abandonment and said Opinion of Counsel shall be accompanied by a certified copy of the order, if any, expressed to be so required.

Section 2. Except as hereinafter specifically provided in this Section 2, the Railroad Company while remaining in possession of the mortgaged property may, without obtaining a release from, action by or giving notice to the Trustee and without other action or proceeding on the part of the Railroad Company hereunder:

(a) In the ordinary conduct of its business, sell, exchange or otherwise dispose of, free from the lien of the Mortgage, any office equipment, machinery, tools, furniture, materials and supplies and other chattels (except Equipment) which may have become obsolete, worn out, unserviceable or no longer required in the conduct of its business; provided the Railroad Company shall, within a reasonable time, replace the same with other property which shall become subject to the lien of the Mortgage and be of a value to the Railroad

Company at least equal to the value of the property so disposed of;

(b) In the ordinary course of its business, sell, exchange or otherwise dispose of, free from the lien of the Mortgage, any Equipment which is no longer useful, any buildings, bridges, structures, industrial tracks, side tracks or yard tracks which it has been desirable in the conduct of its business to retire from use, and any land constituting abandoned right of way or station grounds, or industrial sites or other land (with or without improvements thereon) which is no longer useful to the Railroad Company, if the consideration received on any such sale or other disposition does not exceed $5,000; provided that if the Railroad Company shall receive any cash or other consideration (other than property, which may but need not have a similar substitutional use, and which shall have become subject to the lien of the Mortgage) on any such sale or other disposition, it shall from time to time, but at intervals of not more than 90 days, shall deposit with the Trustee, or with the trustee or mortgagee of any Prior Lien as permitted by the provisions of Section 4 of this Article XI, an amount in cash equal to the cash so received and the fair value of the Railroad Company, in the opinion of the Engineer, of such other consideration; and

(c) Make any lease of any of its mortgaged property, other than its lines of railroad (including any leasehold, trackage right or other interest therein), bridges or terminals, or grant any easement, license or other right with respect to any of its mortgaged property which does not interfere with the use and operation of its lines of railroad, bridges and terminals, provided such lease, easement, license or other right is subject to the continuing lien of the Mortgage.

On or before April 1, 1947, and on or before April 1 of each succeeding year, the Railroad Company shall file with the

Trustee a report for the preceding calendar year signed as in the case of an Officers' Certificate and setting forth in reasonable detail a description of the property sold, exchanged or otherwise disposed of during the preceding calendar year under clause (b) of this Section 2, the cash or other consideration received by the Railroad Company in connection with each such sale, exchange or other disposition (showing separately, in the case of such other consideration, that which shall have become, and that which shall not have become, subject to the lien of the Mortgage), the total amount of consideration received during the preceding calendar year for property so sold, exchanged or otherwise disposed of, and the total amount thereof deposited with the trustee or mortgagee of any Prior Lien as permitted by the provisions of Section 4 of this Article XI.

Such report shall be accompanied by an Engineer's Certificate stating that the respective considerations received in all cases of sales, exchanges or other dispositions made under clause (b) of this Section 2 represented the fair value to the Railroad Company of the property sold and that in no case was the consideration received in any one sale in excess of $5,000 and stating the fair value to the Railroad Company of all such consideration other than cash.

In order to evidence the termination of the lien of the Mortgage on any property sold, exchanged or otherwise disposed of in accordance with this Section 2 the Trustee shall execute and deliver confirmatory releases or certificates that such property is free from the lien of the Mortgage from time to time at the request of the Railroad Company upon receiving an Officers' Certificate describing in reasonable detail the property to be released, and stating that it has been sold, exchanged or otherwise disposed of under the provisions of this Section 2 and in full compliance with the terms and conditions

prescribed herein, and an Engineer's Certificate stating the fair value to the Railroad Company of the property to be released and the fair value to the Railroad Company of all consideration, other than cash, to be received by the Railroad Company therefor, and stating that the consideration, including cash, received or to be received by the Railroad Company for such property represented the fair value of such property to the Railroad Company and does not exceed $5,000.

Section 3. Part A. From time to time unless and until an Event of Default shall have occurred and be continuing, the Railroad Company may sell or dispose of, and in connection therewith obtain the release of, any part of the property subject to the lien of the Mortgage, other than cash or purchase money obligations held by the Trustee or Securities deposited and pledged with the Trustee, provided that the applicable provisions, if any, of Part B of Section 1 of this Article XI are complied with; and the Trustee shall release from the lien of the Mortgage any such property if the fair value (as determined by the Engineer in accordance with the provisions of clause (g) of Part B of this Section 3) of the part of the property to be released shall not exceed the aggregate of:

(a) The cash, then being deposited with the Trustee or with the trustee of the First Mortgage or the trustee or mortgagee of any Prior Lien as permitted by the provisions of Section 4 of this Article XI, which shall have been or is to be concurrently received by the Railroad Company as consideration or part consideration for the disposition of the property to be released;

(b) The principal amount of any purchase money obligations, then being deposited and pledged with the Trustee or with the trustee of the First Mortgage or the trustee or mortgagee of any Prior Lien as permitted by the provisions of Section 4 of this Article XI, which shall have been received

by the Railroad Company as consideration or part consideration for the disposition of the part of the property to be released and which shall be secured by a purchase money mortgage thereon; provided that

(1) such purchase money obligations shall mature within 5 years of the date thereof and shall be included only to the extent that the principal amount thereof does not in the aggregate exceed 60% of the fair value, determined as aforesaid, of the property to be released; and

(2) the aggregate principal amount of such purchase money obligations and all other purchase money obligations pledged with the Trustee pursuant to the provisions of this Section 3, and then held subject to the lien of the Mortgage (or pledged with the trustee of the First Mortgage or the trustee or mortgagee of any Prior Lien, as permitted by the provisions of Section 4 of this Article XI, and then held by such trustee or mortgagee) shall not exceed 10% of the aggregate principal amount of Bonds outstanding at the date of the Application for release filed with the Trustee pursuant to the provisions of clause (b) of Part B of this Section 3;

(c) The Gross Expenditures (other than Gross Expenditures with respect to Equipment) then certified to the Trustee in the Officers' Certificate filed with the Trustee, pursuant to the provisions of clause (c) of Part B of this Section 3, with respect to Additions and Betterments which have been or are to be concurrently acquired by the Railroad Company as consideration or part consideration for the disposition of the property to be released and which shall not at the time of acquisition be subject to any lien, other than the First Mortgage and Permitted Encumbrances, prior to the lien of the Mortgage.

Part B. Prior to the release of any part of the property from the lien of the Mortgage under this Section 3 there shall in each case have been delivered to the Trustee:

(a) A Certified Resolution authorizing or approving the request for release and stating that in the judgment of the Board of Directors such release is desirable in the conduct of the business of the Railroad Company;

(b) An Application for such release;

(c) An Officers' Certificate which shall contain:

(1) a description in reasonable detail of the property a release of which is requested, and the fair value thereof (determined in accordance with the provisions of clause (g) of this Part B);

(2) a statement of the amount of cash, if any, being deposited pursuant to clause (a) of Part A of this Section 3;

(3) a description in reasonable detail of the purchase money obligations, if any, being pledged pursuant to clause (b) of Part A of this Section 3, a statement that such purchase money obligations have been received as consideration or part consideration for the disposition of the property to be released, a statement that such purchase money obligations do not exceed the limitations of clause (b) (1) of Part A of this Section 3, and a computation showing that the principal amount of all such purchase money obligations does not exceed the limitations of clause (b) (2) of said Part A;

(4) the Gross Expenditures with respect to Additions and Betterments which have been or are to be concurrently acquired as consideration or part consideration for the property to be released, a description in reasonable detail of such Additions and Betterments, and a statement as to whether or not any such Additions and Betterments are located on any leasehold;

(5) a statement that no Event of Default has occurred and is continuing;

(6) a statement accompanied by a showing of compliance with Part B of Section 1 of this Article XI with

respect to the property the release of which is applied for, or a statement that such property does not constitute any part of the lines of railroad or any bridge or terminal subject to the lien of the Mortgage or any leasehold, easement, trackage right or other interest therein; and

(7) a statement as to whether the property, the release of which is applied for, is subject to any Prior Lien of the nature referred to in Section 4 of this Article XI, and identifying any such liens;

(d) Any cash then being deposited with the Trustee pursuant to clause (a) of Part A of this Section 3, or, if any cash is being deposited with the trustee of the First Mortgage or the trustee or mortgagee of any Prior Lien as permitted by the provisions of Section 4 of this Article XI, in connection with the release of the property to be released, a written statement of such trustee or mortgagee, as the case may be, certifying that such cash has been deposited with it;

(e) Any purchase money obligations then being deposited and pledged with the Trustee pursuant to clause (b) of Part A of this Section 3, or, if any purchase money obligations are then being pledged with the trustee of the First Mortgage or the trustee or mortgagee of any Prior Lien as permitted by the provisions of Section 4 of this Article XI, in connection with the release of the property to be released, a written statement of such trustee or mortgagee, as the case may be, certifying that such purchase money obligations have been pledged with it, together, in either event, with any and all assignments thereof, supplemental indentures or other instruments which, as set forth in the Opinion of Counsel furnished pursuant to clause (h) of this Part B, are stated to be necessary or advisable to duly assign to the Trustee subject to such lien, or otherwise to render subject to the lien of the Mortgage, such purchase money obligations;

(f) All such deeds, supplemental indentures, or instruments of further assurance, which, as set forth in the Opinion of Counsel furnished pursuant to clause (h) of this Part B, are stated to be necessary or advisable to subject to the lien of the Mortgage any property constituting Additions and Betterments included in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, or, in the case of Additions and Betterments located on leaseholds, to subject the leaseholds to such lien;

(g) An Engineer's Certificate stating the fair value to the Railroad Company of the property a release of which is requested;

(h) An Opinion of Counsel to the effect that:

(1) any purchase money obligations pledged with the Trustee, or with the trustee of the First Mortgage or the trustee or mortgagee of any Prior Lien as permitted by Section 4 of this Article XI, have been validly issued; that the assignments, supplemental indentures or other instruments delivered to the Trustee pursuant to clause (f) of this Part B duly assign to the Trustee subject to such lien, or otherwise render subject to the lien of the Mortgage, such purchase money obligations, or that no such instruments are required for such purpose; and that such purchase money obligations are secured by a valid lien upon the property released subject to no liens prior or equal to the lien thereof, except any liens which were Permitted Encumbrances on the property released and except any Prior Lien to which the property released was subject; and

(2) the property constituting Additions and Betterments specified in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, except such as are located on leaseholds, is subject to the lien of the First Mortgage (so long as it remains a lien on the mortgaged property) and to the lien of the Mortgage or will become subject to such liens upon the

delivery and recording or filing of the deeds, supplemental indentures, or instruments of further assurance, if any, specified in said Opinion of Counsel, subject to no defect in title and subject to no lien thereon prior or equal to the lien of the Mortgage, except the First Mortgage and Permitted Encumbrances, if any, and if any such property is located on any leasehold, as shown by the Application, that such leasehold is subject to the lien of the First Mortgage (so long as it remains a lien on the mortgaged property) and to the lien of the Mortgage, or will become subject to such liens upon the delivery and recording or filing of the deeds, supplemental indentures or instruments of further assurance, if any, specified in said Opinion of Counsel, and extends for a period of time not less than 10 years beyond the latest maturity date of any Bonds then outstanding, or that, under the terms of such leasehold, the Railroad Company has the right to be reimbursed in respect of the Cost of such Additions and Betterments or the right to remove the same upon the termination of such leasehold and that all of the Railroad Company's interest in such leasehold (except the last day of the term thereof), including any such right of reimbursement, has been pledged with the Trustee; provided that such Opinion of Counsel may recite that it is based upon certificates or opinions of officers or engineers of the Railroad Company as to any matters of fact not of public record.

SECTION 4. If, under the provisions of the First Mortgage or of any Prior Lien on any part of property to be released from the Mortgage, there is required to be made with or to the trustee or mortgagee under such lien a deposit of cash or pledge of purchase money obligations in order to obtain a release therefrom of such part of the property subject to the Mortgage, the Railroad Company shall not be required to deposit or pledge with the Trustee such cash or purchase money obligations to the extent that the Railroad Company shall deposit such cash and pledge such purchase money obligations with the trustee or mortgagee of such lien.

SECTION 5. Should any part of the property subject to the lien of the Mortgage be taken by the exercise of the power of eminent domain or should any governmental body at any time exercise any right which it may have to require the sale to it or to a purchaser designated by it of any part of the property subject to the lien of the Mortgage, the Trustee, upon request of the Railroad Company, shall release the property so taken or sold upon the Trustee's being furnished with an Opinion of Counsel to the effect that such part of the property subject to the lien of the Mortgage has been lawfully taken or sold as aforesaid. The aforesaid Opinion of Counsel shall state the amount of proceeds received or to be received for the property so taken or sold. Subject to the provisions of Section 4 of this Article XI, the proceeds of all property so taken or sold shall be deposited with the Trustee.

SECTION 6. In order to confirm, secure or clear (of record or otherwise) the prior right, charge, lien or title with respect to Equipment securing any Equipment Obligation hereafter created under reservation of right set forth in connection with the granting clauses of the Mortgage, the Trustee shall, upon compliance with the subsequent provisions of this Section 6, either confirm as to such Equipment the subordination of the lien of the Mortgage to such prior right, charge, lien or title, or release such Equipment from the lien of the Mortgage.

Prior to any such confirmation of subordination or release there shall be delivered to the Trustee a Certified Resolution requesting such action by the Trustee and an Officers' Certificate which shall describe the Equipment as to which a confirmation of subordination or a release is requested, shall describe the Equipment Obligation to be secured by a prior right, charge, lien or title thereon, shall state that such Equipment was acquired or constructed for the use of the Railroad

Company within two years preceding the date of such Certificate, and shall state that none of said Equipment has theretofore been Bonded or Otherwise Financed.

There shall also be furnished to the Trustee an Opinion of Counsel and the instrument or instruments to be executed and delivered by the Trustee in order to effect the requested confirmation of subordination or release. Such Opinion of Counsel shall approve the form of the instrument or instruments furnished therewith and shall express the opinion that, after the execution and delivery by the Trustee of such confirmation of subordination or release, the lien of the Mortgage will continue to attach to all right, title or interest of the Railroad Company then or thereafter existing with respect to the Equipment described in the Certificate, subject only to the prior right, charge, lien or title of the Equipment Obligations therein described, and to Permitted Encumbrances; but such expression of opinion may be predicated upon the execution and delivery of other instruments in addition to those specified above, or the taking of other action, in which case the Railroad Company shall cause such other instruments to be executed and delivered or such other action to be taken.

SECTION 7. Unless an Event of default shall have occurred and be continuing, all moneys held by the Trustee under this Article XI, at the option of the Railroad Company:

(a) May be withdrawn by the Railroad Company upon its written Application, accompanied by a Certified Resolution authorizing such Application, in an amount equal to the Gross Expenditures with respect to Additions and Betterments acquired or constructed after the date of the deposit of the moneys desired to be withdrawn, provided such Expenditures have not been Bonded or Otherwise Financed; but only upon delivery to the Trustee of an Officers' Certificate, dated not more than 30 days prior to the delivery thereof,

containing a description in reasonable detail of the property constituting the Additions and Betterments represented by such Gross Expenditures and a statement of the amount of such Gross Expenditures, that no part of such Gross Expenditures has theretofore been Bonded or Otherwise Financed, and that no Event of Default has occurred and is continuing. There shall be delivered to the Trustee, accompanying said Application, deeds and instruments of transfer and an Opinion of Counsel of the character required in clauses (f) and (h) (2) of Part B of Section 3 of this Article XI.

(b) May be withdrawn by the Railroad Company upon its written Application, accompanied by a Certified Resolution authorizing such Application, in an amount equal to 133⅓% of the principal amount of Bonds to the authentication and delivery of which the Railroad Company would then be entitled on account of Bondable Expenditures under the provisions of Section 2 of Article III. On any such Application the Railroad Company shall comply with all applicable provisions of Section 2 of Article III relating to the authentication and delivery of Bonds and the provisions of Section 8 of Article III, except that it shall not be required to comply with any of the provisions of clause (f) of Section 2 of Article III or Section 8 of Article III other than clauses (d) (4) and (e) of said Section 8. Any withdrawal of cash under this paragraph shall be in lieu of the right of the Railroad Company to the authentication and delivery of Bonds on account of such Bondable Expenditures.

(c) May be withdrawn by the Railroad Company upon its written Application in an amount not exceeding the principal amount or the cost (exclusive of interest) to the Railroad Company, whichever is less, of any Bonds (not theretofore Bonded, or acquired, retired, cancelled or paid through the

operation of any sinking fund or analogous fund established pursuant to the Mortgage) theretofore authenticated and delivered under the Mortgage which shall have been cancelled or surrendered to the Trustee for cancellation, but only upon delivery to the Trustee of

(1) an Officers' Certificate describing the Bonds the cancellation or surrender for cancellation of which forms the basis for the proposed withdrawal of cash, stating the cost thereof (exclusive of interest) to the Railroad Company, and stating that said Bonds have theretofore been duly issued and outstanding and reacquired by the Railroad Company, that none of said Bonds has theretofore been Bonded, or acquired, retired, cancelled or paid through the operation of any sinking fund or analogous fund established pursuant to the Mortgage, and that no Event of Default has occurred and is continuing; and

(2) the particular Bonds together with all appropriate coupons, if any, appertaining thereto.

(d) May be applied, upon the written request of the Railroad Company, signed by its President or a Vice President, accompanied by a Certified Resolution authorizing such request, to the payment at maturity or to the redemption of Bonds then outstanding of any series determined by said Resolution. Any such request of the Railroad Company for the application of moneys pursuant to this clause (d) shall also be accompanied by an Officers' Certificate stating that no Event of Default has occurred and is continuing.

The Railroad Company covenants that whenever any redemption of Bonds shall be applied for under the provisions of clause (d) of this Section 7, it will take all action necessary, or authorize the Trustee to take all action necessary, to redeem such Bonds at the earliest applicable redemption date, and will deposit with Trustee on or before the date fixed for redemption additional moneys sufficient to pay the premium

and all accrued and unpaid interest on the Bonds so to be redeemed to the date so fixed for redemption.

If and when the Railroad Company shall so request by Certified Resolution filed with the Trustee, provided no Event of Default shall have occurred and then be continuing, any moneys at the time held under this Article XI by the Trustee shall be invested by it in such direct obligations of the United States of America maturing within 2 years as shall be specified in such Resolution. Such obligations shall be held by the Trustee in lieu of the moneys invested therein subject to its absolute right to liquidate such investment in such manner and at such time or times as, in the exercise of its discretion, it deems to be advisable. The Railroad Company covenants that upon demand by the Trustee it will replace all moneys lost through any investment made and liquidated as by this Section 7 contemplated, and will pay or reimburse the Trustee for all accrued interest, commissions and expense paid or incurred in connection with the acquisition and liquidation of such investment. The Trustee shall have the right and duty to receive all amounts paid on account of any investment made by it as hereby contemplated, including all interest payments, shall retain such interest payments pending liquidation of such investment, and after such liquidation shall retain so much of such interest payments as may be necessary to replace any loss of moneys suffered or to pay or reimburse itself for any accrued interest, commissions or expense paid or incurred in connection with the acquisition and liquidation of such investment and not replaced, paid or reimbursed by the Railroad Company as above provided, and shall pay over any balance of such interest payments to the Railroad Company.

Section 8. The Trustee shall not be required under any of the provisions of this Article XI to release any part of the

property subject to the lien of the Mortgage from the lien hereof at any time when an Event of Default shall have occurred and be continuing; but, notwithstanding any such Event of Default, the Trustee may do so upon compliance by the Railroad Company with the provisions of Section 3 of this Article XI except clause (c) (5) of Part B of said Section 3, if the Trustee in its discretion shall deem that such release will not adversely affect the interests of the Bondholders, or if the holders of a majority in principal amount of the Outstanding Bonds shall request the Trustee so to do.

Section 9. In no event shall any purchaser or purchasers of any part of the mortgaged property sold or disposed of under any provisions of this Article XI be required to ascertain the authority of the Trustee to execute any release, to see to the application of the purchase money or to inquire as to any facts required by the provisions hereof for the exercise of such authority.

Section 10. Notwithstanding any of the provisions of the Mortgage, the Trustee shall release, either before or after an Event of Default shall have occurred, the lien of the Mortgage as to any property or properties or part or parts thereof at any time subject thereto, and cause such property or properties to revert to the Railroad Company free and clear of such lien; provided, however, that, prior to the release of any such property under this Section 10, there shall have been delivered to the Trustee in each case:

(a) a request (evidenced as provided in Section 1 of Article XIV) of the holders of not less than 75% in aggregate principal amount of all Outstanding Bonds, to release the property in question and the designation by such holders of the independent railroad expert referred to in subsection (c) below; or

(b) the record showing that the holders of not less

than 85% in aggregate principal amount of all Outstanding Bonds represented at a Bondholders' Meeting, called and conducted pursuant to Article XV hereof, at which not less than 50% in aggregate principal amount of all Outstanding Bonds were represented, requested the release of the property in question and designated the independent railroad expert referred to in subsection (c) below; and

(c) in either case, a report of the independent railroad expert designated pursuant to either subsection (a) or subsection (b) above, to the effect that such property is no longer of value to the holders of Outstanding Bonds and that, in his opinion, a proper allocation of revenues and expenses thereto then shows, and in the future may reasonably be expected to show, a loss.

ARTICLE XII

Consolidation, Merger, Conveyance and Lease

Section 1. Nothing in the Mortgage or in any Bond shall prevent the consolidation or merger of the Railroad Company with or into any other corporation lawfully entitled to acquire and operate the same or successive consolidations or mergers to which the Railroad Company or its successor or successors shall be a party or parties, or shall prevent any conveyance or lease, subject to the continuing lien of the Mortgage, of all or substantially all of the mortgaged property to any such other corporation; provided, however, that:

(a) Every such consolidation, merger, conveyance or lease shall be on such terms as shall fully preserve the lien and security of the Mortgage and the rights and powers of the Trustee and of the Bondholders hereunder.

(b) Any such lease shall be made expressly subject to immediate termination by the Trustee at any time upon the occurrence of an Event of Default and during the continuance thereof, and also by the purchaser of the property so leased upon any sale thereof whether such sale be made under the power of sale hereby conferred or under judicial proceedings.

(c) Upon any such consolidation, merger, conveyance or lease, the successor corporation or the lessee corporation, as the case may be, shall expressly assume the due and punctual payment of the principal of and interest on all of the Bonds according to their tenor and purport, and the due and punctual performance of all of the terms, covenants and conditions of the Mortgage required to be kept, preserved and performed by the Railroad Company.

(d) In the event of any such consolidation, merger or conveyance, the successor corporation, subject to the exceptions provided in Section 2 of this Article XII, shall

expressly grant and convey to the Trustee, as further security for all Bonds issued hereunder, and shall subject to the lien of the Mortgage, all of its property and franchises then owned and which it may thereafter acquire of the character and kind which, under the terms of the Mortgage, are required to be subjected to the lien thereof, all as fully as though such consolidation, merger or sale had not taken place and such property and franchises had been acquired by the Railroad Company.

Compliance with the foregoing requirements of this Section 1 shall be evidenced by a supplemental indenture.

For the purposes of this Article XII, the term "conveyance" shall mean any sale, conveyance or transfer, the term "successor corporation" shall mean any corporation resulting from any such consolidation or merger or any corporation to which such conveyance shall be made, and the term "lessee corporation" shall mean any corporation to which any such lease shall be made.

The conditions contained in this Section 1 shall not be construed as requiring that in the event of any such consolidation, merger, conveyance or lease a separate income account shall thereafter be maintained in respect of the operation of the properties subject to the lien of the Mortgage, but in lieu thereof provisions may be made which shall be equitable and practical with respect to the apportionment of the revenues and expenses of any such successor or lessee corporation to establish a basis for the determination and application of Available Net Income as required under Article V or for the purpose of determining and applying funds to the payment of interest on any contingent interest bonds of the Railroad Company or for the purpose of determining the amount of payments required to be made into or out of the Additions and Betterments Fund or the Reserve and Retirement

Fund or for any other purpose fulfilling the provisions and conditions of the Mortgage; provided that any such provisions shall be approved by the Interstate Commerce Commission or other governmental body having jurisdiction of the consolidation, merger, conveyance or lease, and, unless such Commission or other governmental body shall find that no material alteration of the rights of the Bondholders is thereby effected and shall so determine, they shall also be consented to or approved by the holders of a majority in principal amount of the Outstanding Bonds, in the manner provided in Article XV.

Section 2. In the event that under the provisions of Section 1 of this Article XII there shall be a consolidation or merger of the Railroad Company with or into, or a conveyance by the Railroad Company of all or substantially all of the mortgaged property to, a successor corporation, then the successor corporation shall if it shall have been a Railroad Subsidiary immediately prior thereto, and may but need not if it shall have been a Class I Carrier (not a Railroad Subsidiary) immediately prior thereto, make an express grant to the Trustee of its property and franchises as required by paragraph (d) of Section 1 of this Article XII, and in the absence of such express grant by any such successor corporation (except a Railroad Subsidiary), the Mortgage shall not by reason of such consolidation, merger or conveyance constitute and become a lien upon, and the term "mortgaged property" as herein used shall not include or comprise:

(i) Any property or franchise which, prior to such consolidation, merger or conveyance, was owned by any corporation with or into which the Railroad Company or any successor corporation may be consolidated or merged or to which the Railroad Company or any successor corporation may make any such conveyance, or any property

or franchises which theretofore may have been acquired by the Railroad Company or any successor corporation and which prior to such consolidation, merger or conveyance were not subject to the lien of the Mortgage; or

(ii) Any property or franchise which may be purchased, constructed or otherwise acquired by any successor corporation after the date of any such consolidation, merger or conveyance, excepting only the property, rights and franchises referred to in clauses (a) and (b) of this Section 2, which, as and when purchased, constructed, or otherwise acquired by such successor corporation, shall be and become subject to the lien of the Mortgage.

Any supplemental indenture provided for in Section 1 of this Article XII which, by reason of the provisions of this Section 2, is not required to contain an express grant by the successor corporation of all of its property and franchises pursuant to paragraph (d) of said Section 1, shall contain:

(a) A grant by such successor corporation confirming the lien of the Mortgage upon the mortgaged property and subjecting to the lien and operation hereof, as fully as though such consolidation, merger or conveyance had not taken place and the same had been acquired or made by the Railroad Company:

(1) all property, rights and franchises thereafter constructed or acquired which shall be appurtenant or incident to any property that is subject to the lien of the Mortgage at the time of such consolidation, merger or conveyance;

(2) all property, rights and franchises thereafter constructed or acquired in whole or in part by the issuance of Bonds, First Mortgage Bonds or Prior Lien Bonds;

(3) all property, rights and franchises thereafter constructed or acquired with cash then or at any time

thereafter held by the Trustee or by the trustee under the First Mortgage or under any mortgage securing Prior Lien Bonds, or in exchange for property released from the lien thereof, or the acquisition or construction of which has been or shall be made the basis for the withdrawal of cash or the issuance of Bonds or First Mortgage Bonds;

(4) all betterments, extensions, improvements and additions of, to, upon and for the property, rights and franchises subject to the lien of the Mortgage;

(5) all repairs, renewals, replacements, substitutions and alterations of, to, upon or for such property, rights and franchises;

(6) all property, rights and franchises thereafter acquired pursuant to any covenant herein contained which may be purchased, constructed or otherwise acquired by such successor corporation from and after the date of such consolidation, merger or conveyance, as the case may be; and

(7) all other property of every kind and description, whether real, personal or mixed, whether tangible or intangible, and whether consisting of present or future interests, thereafter constructed or acquired by such successor corporation which is appurtenant to or used in connection with any property acquired by the issuance of Bonds, First Mortgage Bonds or Prior Lien Bonds or acquired with cash then or at any time thereafter held by the Trustee or by the Trustee under the First Mortgage or under any mortgage securing Prior Lien Bonds;

(b) A covenant on the part of such successor corporation that all property and franchises thereafter acquired by it and necessary to the full and complete performance of any covenant herein contained relating to the deposit of securities, to the maintenance and upkeep of the mortgaged property, to the supply of adequate

and efficient equipment to the lines of railroad included therein, to the making of all needful and proper repairs, renewals, replacements, substitutions and alterations and to the preservation and keeping in full effect of all rights, franchises and privileges subject to the lien hereof, or of any other covenant herein, shall be conclusively deemed and taken to be acquired by it in performance of such covenant and to have become subject to the lien of the Mortgage; and

(c) A covenant by such successor corporation to keep the mortgaged property, so far as practicable, readily identifiable, and a stipulation that the Trustee by accepting or joining in such supplemental mortgage, shall not be deemed impliedly to have waived any rights it would otherwise have had.

SECTION 3. Nothing contained in the Mortgage or in any Bond shall prevent the Railroad Company from merging into itself or acquiring by conveyance all or any part of the property of any other corporation; provided that in case the Railroad Company shall acquire by any such merger or conveyance all or substantially all of the properties of any other corporation which shall be a Class I Carrier, the properties so acquired by the Railroad Company shall not become subject to the lien of the Mortgage unless such other corporation shall have been a Railroad Subsidiary immediately preceding such merger or conveyance; or unless such properties were (a) acquired with cash held by the Trustee under any provision of the Mortgage or by the trustee under the First Mortgage or any mortgage securing Prior Lien Bonds, (b) acquired in exchange for property released from the lien of the Mortgage, (c) made the basis for the authentication and delivery of Bonds or First Mortgage Bonds or for the withdrawal of cash held by the Trustee under any provision of the Mortgage or by the trustee of the First Mortgage, (d) acquired pursuant to any covenant contained in the Mortgage,

(e) acquired in whole or in part by the issuance of Bonds, First Mortgage Bonds or Prior Lien Bonds, or (f) acquired by expenditures from the Additions and Betterments Fund or the Reserve and Retirement Fund; or unless the Railroad Company shall file with the Trustee a Certified Resolution determining that the lien of the Mortgage shall attach to the properties so acquired from such Class I Carrier.

SECTION 4. In case the Railroad Company shall be consolidated with or merged into or shall make a conveyance to any other corporation as permitted and upon the terms provided in Section 1 of this Article XII, the successor corporation, upon executing and delivering to the Trustee, and causing to be recorded, the supplemental indenture provided for in Section 1 of this Article XII, shall succeed to and be substituted for the Railroad Company with the same force and effect as if it had been named in and had executed the Mortgage as the party of the first part hereto, and shall have and possess and may exercise, subject to the terms and conditions of the Mortgage, each and every power, authority and right herein reserved to or conferred upon the Railroad Company; and thereupon such successor corporation may cause to be signed and may issue, either in its own name or in the name of the party of the first part, and under the corporate seal of either the party of the first part or the successor corporation, any and all Bonds which shall not have been signed theretofore by the party of the first part, and delivered to the Trustee; and the Trustee, upon the order of such successor corporation, and subject to all the terms, conditions and limitations prescribed in the Mortgage, shall authenticate any and all Bonds which previously shall have been signed by the party of the first part, and delivered to the Trustee for authentication, and any Bonds which such successor corporation shall thereafter cause to be signed and delivered to

the Trustee for such purpose, and deliver the same to such successor corporation or upon its order.

SECTION 5. All Bonds issued by any successor corporation shall have the same legal rank and security in all respects as the Bonds theretofore issued by the Railroad Company in accordance with the terms of the Mortgage. In case of any such consolidation, merger or conveyance such changes in phraseology and form (but not in substance) may be made in the Bonds and coupons thereafter to be issued as may be appropriate to reflect any such consolidation, merger or conveyance.

SECTION 6. For every purpose of the Mortgage, any act or proceeding by any provision of the Mortgage authorized, required or permitted to be done or performed by the stockholders or by any board or officer of the Railroad Company shall and may be done and performed, with like force and effect, by the stockholders or by the like board or officer of any successor corporation, subject, however, to the provisions of Section 4 of this Article XII.

SECTION 7. The Railroad Company covenants and agrees that no consolidation or merger and no conveyance or lease of the mortgaged property as a whole or substantially as a whole, to which the Railroad Company or any successor corporation shall be a party, shall be made or effected unless the terms, covenants and conditions contained in this Article XII shall have been complied with and observed by the Railroad Company or the successor corporation, as the case may be.

ARTICLE XIII

CONVERSION OF BONDS OF SERIES B

SECTION 1. The holder of any Outstanding Bond of Series B may, at his election and subject to the provisions of this Article XIII, at any time prior to the maturity thereof (except as provided in Section 5 of this Article XIII with respect to any such Bond called for redemption) convert such Bond, but not a part thereof, into stock of the Railroad Company upon the basis (except as otherwise provided in Sections 7 and 8 of this Article XIII) of one full-paid and nonassessable share of common stock for each $100 principal amount of such Bond.

Each such Bond so to be converted, accompanied by all unmatured interest coupons appertaining thereto, shall be surrendered for that purpose to the Railroad Company at its office or agency in the City of Chicago, State of Illinois, or in the Borough of Manhattan, City and State of New York, accompanied by written notice by the holder thereof of his election so to convert the same, in form satisfactory to the Railroad Company, duly executed by the holder thereof or his duly authorized attorney.

The Railroad Company shall cancel and deliver to the Trustee all Bonds so surrendered, and such Bonds shall not be made the basis for the authentication and delivery of any Bonds or the withdrawal, payment or application of any cash under any provision of the Mortgage.

SECTION 2. As soon as practicable after such surrender of any Outstanding Bond of Series B for conversion, the Railroad Company shall issue and deliver to or upon the order of the holder of such Bond a certificate for the number of whole shares of stock and scrip for the fraction of a share,

if any, issuable upon such conversion. The certificate for whole shares shall be issued in the name of such holder or in such name or names as may be directed by him as of the date of such surrender unless such surrender is made while the books for the transfer of any stock issuable upon such conversion are closed for any purpose, in which event the issuance and delivery of certificates for such stock shall be postponed until the opening of such books. The Railroad Company shall pay any tax with respect to the issuance or delivery of certificates and scrip as aforesaid except that it shall not be required to pay any tax with respect to any transfer involved in the issue and delivery of certificates in a name or names other than that of the holder of the Bond upon the surrender of which such certificates shall have been issued, and no such issue or delivery shall be made unless and until the person requesting such issue has paid to the Railroad Company the amount of any tax payable upon any such transfer, or has established to the satisfaction of the Railroad Company that such tax has been paid.

SECTION 3. In lieu of the issuance of fractions of shares resulting from any conversion pursuant to this Article XIII, and the issuance and delivery of stock certificates with respect thereto, the Railroad Company may deliver scrip certificates for such fractions, exchangeable in lots aggregating one or more full shares for stock certificates for the number of full shares represented thereby, and the provisions of such scrip certificates may, among other things, authorize the sale of the fractions represented thereby for the account of the holders thereof, and suspend or negative voting and dividend rights with respect to such fractions while such scrip certificates remain outstanding.

So long as the Voting Trust Agreement dated as of December 1, 1945, entered between the Railroad Company and cer-

tain other parties named therein pursuant to the Plan, shall remain in effect, the stock certificates or scrip for any shares of stock or fractions thereof deliverable upon the conversion of any Bonds of Series B shall be delivered to and held by the Voting Trustees subject to the terms and provisions of said Voting Trust Agreement, and in lieu of such stock certificates and scrip the Railroad Company shall deliver or cause to be delivered voting trust certificates or voting trust scrip, issued under said Voting Trust Agreement, with respect to such shares or fraction thereof.

SECTION 4. Interest on each Bond of Series B surrendered for conversion shall be payable to the extent and at the times as follows:

(a) If such Bond is a registered Bond without coupons, any interest which at or prior to the time of surrender shall have become payable thereon, if not previously paid, shall be paid at the time of and notwithstanding the surrender thereof;

(b) If such Bond is a coupon Bond, any interest which at or prior to the time of surrender shall have become payable thereon, if not previously paid, shall continue to be payable upon presentation and surrender of the respective coupons therefor notwithstanding the surrender of such Bond for conversion; and

(c) In case such Bond be surrendered during the first 3 months of a calendar year, any interest which shall become payable on Bonds of Series B on April 1 of such calendar year shall continue to be payable on such April 1 with respect to such Bond notwithstanding surrender thereof, in the case of coupon Bonds upon presentation and surrender of the proper interest coupon therefor.

Except as payment of, or reservation of right to, interest is specifically provided for in the preceding clauses (a) to (c), inclusive, all rights with respect to any Bond of Series B

surrendered for conversion, and all coupons appertaining thereto, shall cease and determine upon surrender thereof for such purpose. Each payment of interest made as aforesaid on account of any Bond surrendered for conversion or of any coupon appertaining thereto presented and surrendered for payment pursuant to this Article XIII shall be made to or upon the order of the holder thereof at the time so surrendered.

SECTION 5. Bonds of Series B called for redemption shall be convertible under this Article XIII at any time on or before the date fixed for such redemption, or in case said date shall be a legal holiday, then on or before the first business day thereafter.

SECTION 6. The Railroad Company covenants that at all times there shall be authorized but unissued, but reserved solely for the purposes of this Article XIII, a number of shares of its stock of such class or classes as shall be sufficient to enable it to comply with the provisions of this Article XIII if all Bonds of Series B then outstanding hereunder should be presented for conversion as herein provided.

SECTION 7. If at the time of the proposed conversion of any Bonds of Series B into common stock of the Railroad Company, the average consideration per share (in terms of United States dollars) for which the Railroad Company shall have issued its then outstanding shares of common stock, whether issued for cash, property or services rendered, or as a stock dividend, shall be less than $100 per share, each such Bond shall be convertible into a number of shares of common stock of the Railroad Company determined by dividing the principal amount of such Bond by the amount of such average consideration per share; provided, that in determining

such average consideration per share (a) each share of common stock of the Railroad Company issued pursuant to the Plan shall, solely for the purposes of this Article XIII, be deemed to have been issued for a consideration of $100 per share, and (b) each share of such stock issued for property or services rendered, or as a stock dividend, shall be deemed to have been issued at a price equal to the amount credited to capital stock account of the Railroad Company on account of the issuance thereof. Each Bond of Series B presented to the Railroad Company for conversion at any time after the Railroad Company shall have changed its common stock without par value into a different number of shares without par value, or into the same or a different number of shares of stock with par value, or into the same or a different number of shares of stock of any other class or classes, shall be convertible into shares of stock of the Railroad Company, of the class or classes into which such common stock without par value shall have been changed, and in a number of shares equitably determined according to the basis upon which such change was effected, all to the end that after any such change or changes any holder of a Bond of Series B shall be entitled to receive upon conversion thereof the equivalent of the common stock of the Railroad Company he would then have been entitled to receive had such change or changes not taken place.

The Railroad Company covenants that, so long as any Bonds of Series B shall be outstanding, no change in the number or class of shares issuable upon the conversion of such Bonds, and no change in the par value of any such shares, will be made if the result of such change would be to render illegal the issuance, upon the conversion of such Bonds, of shares of stock of the Railroad Company of the class or classes and in the amount hereinbefore provided for.

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Article XIII
Sections 8 and 9

SECTION 8. In case the Railroad Company shall consolidate with or be merged into any other corporation or corporations or shall convey substantially all of its property and assets to any other corporation while any of the Bonds of Series B shall be outstanding, and in connection with such consolidation, merger or conveyance, shares, securities or other property shall be issuable or deliverable for its stock at the time issuable upon conversion of Bonds of Series B, then as a part of such consolidation, merger or conveyance, lawful provision shall be made so that the holders of Bonds of Series B shall thereafter be entitled to receive upon conversion of the same, in lieu of each share of such stock of the Railroad Company which would have been deliverable upon conversion of Bonds of Series B on the conversion basis in effect immediately prior to such consolidation, merger or conveyance, the same kind and amount of shares, securities or other property as may be issuable, distributable, deliverable or payable upon such consolidation, merger or conveyance with respect to each share of such stock of the Railroad Company outstanding at the date of such consolidation, merger or conveyance; and after such consolidation, merger or conveyance, the right of conversion of holders of the Bonds of Series B shall be to receive such shares, securities or other properties in lieu of such stock of the Railroad Company.

SECTION 9. In case the Railroad Company shall take any action which under the provisions of this Article XIII shall result in a change in the number of shares or character of stock deliverable upon conversion of the Bonds of Series B, it shall, as soon as may be, and in any event within one month after the date of such action, file with the Trustee a statement signed by its President or one of its Vice Presidents and by its Treasurer or one of its Assistant Treasurers, showing in detail, (a) in the case of a change in the number

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Article XIII
Sections 9 and 10

of classes or the character of stock of the Railroad Company issuable upon such conversion, the new conversion basis, or (b) in case of any consolidation or merger or sale of assets, the shares, securities or other property thereafter deliverable upon the conversion of any Bonds of Series B.

SECTION 10. The Trustee shall be under no duty to examine into the truth and accuracy or in any way to verify the facts or conclusions stated in any statement filed with it by the Railroad Company pursuant to the provisions of Section 9 of this Article XIII, and the Trustee may rely upon each and every such statement. In case the holders of 10% in principal amount of the Bonds of Series B then outstanding shall give written notice to the Trustee that they question the correctness of any such statement so filed, or of any fact or conclusion therein stated, the Trustee shall cause an investigation thereof to be made, in such manner as in its sole discretion it may deem advisable, and if as a result of such investigation the Trustee shall determine that any correction should be made in any such statement, then the Trustee shall notify the Railroad Company in writing of any such correction and thereafter the rights of the holders of Series B Bonds to convert the same as in this Article XIII provided shall be deemed to be as set forth in such statement as so corrected. The cost of making any such investigation shall be repaid to the Trustee by the Railroad Company.

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Article XIV
Section 1

ARTICLE XIV

CONCERNING THE BONDHOLDERS

SECTION 1. Whenever any action is taken by the Bondholders in the exercise of any or all of the following powers:

(a) To consent to an extension of the time or times of payment of the principal, either before or after the principal is due, of the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, subject to the provisions of Section 3 of Article XX;

(b) To consent to an extension of the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 5 years after such interest is due, but in no event beyond the original or extended date or dates for the payment of the principal of such Bonds, subject to the provisions of Section 3 of Article XX;

(c) To give any notice to the Railroad Company or to the Trustee, or to give any directions to the Trustee, or to consent to the waiving of any default hereunder and its consequences, or to take any other action authorized to be taken by Bondholders pursuant to any of the provisions of Article XVII;

(d) To remove the Trustee and appoint a successor trustee pursuant to the provisions of Article XVI;

(e) To consent to the execution of an indenture or indentures supplemental hereto pursuant to the provisions of Section 2 of Article XX;

(f) To terminate, either before or after an Event of Default shall have occurred, the lien of the Mortgage as

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Article XIV
Sections 1 and 2

to any property or properties or part or parts thereof at any time subject thereto and cause the same to revert to the Railroad Company free and clear of such lien upon such conditions as such holders may direct pursuant to the provisions of Section 10 of Article XI; or

(g) To take any other action or give any other consent authorized to be taken or given by or on behalf of the holders of any specified percentage or portion of the aggregate principal amount of the Bonds under any other provision of the Mortgage or under applicable law or, if no percentage is specified, by the holders of not less than a majority in principal amount of all Outstanding Bonds;

the fact that at the time of taking any such action the holders of a specified percentage in aggregate principal amount of Bonds have joined therein may be evidenced (i) by an instrument or any number of instruments of similar tenor executed by such holders in person or by agent or proxy appointed in writing, or (ii) by the record of the holders of Bonds voting in favor thereof in person or by agent or proxy appointed in writing at any meeting of Bondholders duly called and held in accordance with the provisions of Article XV hereof, or (iii) by a combination of such instrument or instruments and any such record of such a meeting of Bondholders.

SECTION 2. Proof of the execution of any instrument by the holder of any Bond or his agent or proxy, and proof of the holding by any person of any Bond, shall be sufficient if made in the following manner:

(a) The fact and date of the execution by any such person of any instrument may be proved by the certificate of any notary public or other officer authorized to take acknowledgements of deeds in the jurisdiction in which he purports to act that the person executing such instrument acknowl-

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Article XIV
Section 2

edged to him the execution thereof, or by an affidavit of a witness to such execution sworn to before any such notary or other such officer.

(b) The fact of the holding by any person of coupon Bonds transferable by delivery, and the amounts and distinctive numbers of such Bonds and the date of his holding the same, may be proved by the production of the Bonds or by a certificate executed by any trust company, bank or banker satisfactory to the Trustee wherever situated, if such certificate shall be deemed by the Trustee to be satisfactory. Each such certificate shall be dated and shall state that on the date thereof a Bond bearing a specified serial number was deposited with or exhibited to such trust company, bank or banker by the person named in such certificate who claimed to be the owner of such Bond. Any such certificate may be issued in respect of one or more Bonds specified therein. The holding by the person named in any such certificate of any Bond specified therein shall be presumed to continue after the date thereof set forth in such certificate until and unless (1) there shall be produced another certificate issued in respect of the same Bond showing the holding thereof by another person at a later date or (2) the Bond specified in such certificate (or coupon Bond or Bonds in exchange for which such Bond shall have been surrendered) shall be produced by another person or (3) the Bond specified in such certificate shall then be registered as to principal in the name of another person or shall have been surrendered in exchange for a registered Bond without coupons issued in the name of another person.

(c) The ownership of coupon Bonds registered as to principal or of registered Bonds without coupons shall be proved by the registers of such Bonds, or by a certificate of the registrar thereof.

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Article XIV
Sections 2 and 3

The Trustee may require such additional proof of any matter referred to in this Section 2 as it shall deem necessary.

The record of any meeting of Bondholders shall be proved in the manner provided in Section 6 of Article XV hereof.

SECTION 3. The Railroad Company, the Trustee, any paying agent and any bond registrar may deem and treat the bearer of any coupon Bond which shall not at the time be registered as to principal as hereinbefore authorized, and the bearer of any coupon for interest (whether fixed or contingent) on any Bond whether such Bond shall be registered as to principal or not, as the absolute owner of such Bond or coupon, as the case may be (whether or not such Bond or coupon shall have become due and payable), for the purpose of receiving payment thereof and for all other purposes; and neither the Railroad Company nor the Trustee nor any paying agent nor any bond registrar shall be bound by any notice to the contrary.

The Railroad Company, the Trustee, any paying agent and any bond registrar may deem and treat the person in whose name any registered Bond without coupons shall be registered at any given time upon the books of the Railroad Company, as hereinbefore provided, as the absolute owner of such Bond at the time (whether or not the same shall have become due and payable) for the purpose of receiving any payment then being made of or on account of the principal, premium if any, or interest on such Bond and for all other purposes; and may deem and treat the person in whose name any coupon Bond shall be registered as to principal at any given time as the absolute owner thereof at that time (whether or not the same shall have become due and payable) for the purpose of receiving payment of or on account of the principal of, or

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Article XIV
Sections 3 and 4

premium, if any, on such Bond, and for all other purposes except to receive payment of any interest represented by outstanding coupons; and neither the Railroad Company nor the Trustee nor any paying agent nor any bond registrar shall be bound by any notice to the contrary. All such payments so made to any such registered holder for the time being, or upon his order, shall be valid, and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability for moneys payable upon any such Bond.

SECTION 4. In determining whether the holders of the requisite aggregate principal amount of Bonds have concurred in any demand, request, notice, consent or other action under the Mortgage, Bonds which are owned by the Railroad Company or any other obligor on the Bonds or by any person, firm or corporation directly or indirectly controlling or controlled by or under direct or indirect common control with the Railroad Company or any other such obligor, shall be disregarded and deemed not to be outstanding for the purpose of any such determination, provided that the Trustee shall be protected in relying on any such demand, request, notice, consent or other action except as to Bonds which the Trustee knows to be so owned. Bonds so owned which have been pledged in good faith may be regarded as outstanding for the purpose of such determination if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds and that the pledgee is not a person, firm or corporation directly or indirectly controlling or controlled by or under direct or indirect common control with the Railroad Company or any other obligor on the Bonds. In case of a dispute as to such right, any decision by the Trustee taken on the advice of counsel shall be full protection to the Trustee.

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Article XIV
Sections 4 and 5

For the purpose of this Section 4, the terms "control," "controlling" and "controlled" shall mean the right to vote a majority of the outstanding shares of capital stock having full voting rights.

SECTION 5. At any time prior to (but not after) the taking of any action by the holders of a specified percentage in aggregate principal amount of the Bonds specified in the Mortgage in connection with such action, any holder of a Bond the serial number of which is shown to be included in the Bonds the holders of which have consented to join in such action, by filing written notice with the Trustee at its principal office and upon proof of holding as provided in Section 2 of this Article XIV, may revoke such consent so far as concerns such Bond. Except as aforesaid any such action taken by the holder of any Bond shall be conclusive and binding upon such holder and upon all future holders of such Bond, irrespective of whether or not any notation of such consent is made upon such Bond, and in any event any action taken pursuant to the Mortgage by the holders of the percentage in aggregate principal amount of the Bonds specified in the Mortgage in connection with such action shall be conclusively binding upon the Railroad Company, the Trustee and the holders of all Bonds.

ARTICLE XV

Bondholders' Meetings

Section 1. The Trustee may at any time call a meeting of Bondholders to take any action specified in Section 1 of Article XIV, to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of Bondholders, setting forth the time and place of such meeting and the action proposed to be taken at such meeting, shall be published at least once each week, for 4 successive weeks, in a Daily Newspaper in the Borough of Manhattan, City and State of New York, and in a Daily Newspaper in the City of Chicago, State of Illinois, the first publication in any such newspaper to be not less than 30 days nor more than 60 days prior to the date fixed for the meeting. A copy of such notice shall be mailed at least 30 days prior to the date fixed for the meeting to the registered holders of registered Bonds without coupons and of coupon Bonds registered as to principal at their last addresses as they shall appear upon the bond registry books, but neither failure to give such notice by mail nor any defect therein shall affect the validity of such meeting.

Section 2. In case at any time the Railroad Company pursuant to a resolution of its Board of Directors, or the holders of at least 10% in aggregate principal amount of the Outstanding Bonds, shall have requested the Trustee to call a meeting of Bondholders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have made the first publication of the notice of such meeting within 20 days after receipt of such request, then the Railroad Company or the holders of Outstanding Bonds in the amount above specified

may determine the time and place for such meeting and may call such meeting to take any action authorized in Section 1 of Article XIV, by publishing and mailing notice thereof as provided in Section 1 of this Article XV.

Section 3. To be entitled to vote at any meeting of Bondholders a person shall be (a) a holder of coupon Bonds transferable by delivery, or (b) a registered holder of Bonds (whether the same be fully registered or registered only as to principal), or (c) a person appointed by an instrument in writing as proxy for a holder of coupon Bonds transferable by delivery or for a registered holder of Bonds (whether the same be fully registered or registered only as to principal). The only persons who shall be entitled to speak at any meeting of Bondholders shall be the persons entitled to vote at such meeting and their counsel and any representatives of the Trustee and its counsel and any representatives of the Railroad Company and its counsel.

Section 4. Notwithstanding any other provisions of the Mortgage, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Bondholders, in regard to proof of the holding of Bonds and of the appointment of proxies, and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidences of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem advisable. Except as otherwise permitted or required by any such regulations, the holding of Bonds shall be proved in the manner specified in Section 2 of Article XIV, and the appointment of any proxy shall be proved in the manner specified in said Section 2 or by having the signature of the person executing the proxy witnessed or guaranteed by any bank, bankers or trust company authorized by

said Section 2 to certify to the holding of Bonds transferable by delivery.

The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Railroad Company or by Bondholders as provided in Section 2 of this Article XV, in which case the Railroad Company or the Bondholders calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the holders of a majority in principal amount of Outstanding Bonds the holders of which shall be present or represented and entitled to vote at the meeting.

Subject to the provisions of Section 4 of Article XIV, at any meeting each Bondholder or proxy shall be entitled to one vote for each and every unit of the lowest principal amount of any of the Bonds then outstanding, in respect of which he is entitled to vote at the meeting; provided, however, that no vote shall be cast or counted at any meeting in respect of any Bond challenged as not outstanding and ruled by the chairman of the meeting to be not an Outstanding Bond. The chairman of the meeting shall have no right to vote other than by virtue of Outstanding Bonds held by him or instruments in writing as aforesaid duly designating him as the person to vote on behalf of other Bondholders.

Section 5. Any meeting of the Bondholders may be adjourned from time to time as and when, and to such time and place, as may be approved by a majority of the votes which the holders of Bonds at the time present or represented may be entitled to cast, irrespective of the aggregate principal amount of Bonds held by such holders; and the meeting may be held as so adjourned without further notice.

Section 6. The vote upon any proposal submitted at a meeting of Bondholders shall be by written ballots on which shall be subscribed the signatures of the holders of Bonds or their representatives by proxy and the serial number or numbers of the Bonds held or represented by them. The chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any proposal and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record in duplicate of the proceedings of each meeting of Bondholders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes cast on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was published as provided in Section 1 of this Article XV. The record shall show the serial numbers of the Bonds voted for or against any proposal submitted at the meeting. The record shall be signed and verified by the permanent chairman and secretary of the meeting and one of the duplicates shall be delivered to the Railroad Company and the other to the Trustee to be preserved by the Trustee. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

Section 7. Nothing in this Article XV contained shall be deemed or construed to authorize or permit, by reason of any call of a meeting of Bondholders or any rights expressly or impliedly conferred hereunder to make such call, any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the Bondholders under any of the provisions of the Mortgage or of the Bonds.

ARTICLE XVI

Concerning the Trustee

Section 1. The Trustee accepts the trusts hereby created upon the terms and conditions in this Article XVI specified, to all of which the Railroad Company and the holders of the Bonds and coupons at any time outstanding, by their acceptance thereof, agree.

Whenever and so long as an Event of Default has occurred and is continuing, the Trustee shall exercise such of the powers vested in it by the Mortgage, or take such other action with respect to such default, as in its judgment is necessary or desirable for the protection of the interests of the holders of Bonds issued hereunder.

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

(a) Prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred

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

(2) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates, statements, reports or opinions furnished to the Trustee; but in the case of any such certificates, state-

ments, reports or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of the Mortgage.

(b) The Trustee shall not be liable for any error of judgment made in good faith by a responsible officer of the Trustee, if such officer shall have been selected and continued in office in the exercise of due care, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

(c) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of not less than a majority in principal amount (or such other percentage of the principal amount specifically prescribed by the Mortgage for a particular action) of the Outstanding Bonds relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under the Mortgage.

(d) In the case of any action to be taken or suffered by the Trustee, wherein the Mortgage specifically authorizes such action notwithstanding the continuance of an Event of Default, nevertheless the Trustee may rely on certificates and opinions furnished to it, but shall be under the same duty to examine the same to determine whether or not they conform to the requirements of the Mortgage, as though an Event of Default had not occurred and been continuing.

The Trustee may rely and shall be protected in acting upon any Certified Resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, direction, bond, coupon or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

Any request, direction, order or demand of the Railroad Company mentioned herein shall be sufficiently evidenced by an instrument signed in the name of the Railroad Company by the President or a Vice President and the Secretary or an Assistant Secretary, unless other evidence in respect thereof be herein specifically prescribed.

The Trustee may consult with counsel (including counsel in its employ) and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

The Trustee shall be under no obligation to exercise any of the trusts or powers hereof at the request, order or direction of any of the Bondholders, pursuant to the provisions of the Mortgage, unless such Bondholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which may be incurred therein or thereby.

The Trustee shall not be personally liable in case of entry by it upon the mortgaged property for debts contracted or liability or damages incurred in the management or operation of said property.

The Trustee shall not be liable for any action taken by it in good faith and believed by it, in the exercise of due care, to be authorized or within the discretion or power conferred upon it by the Mortgage.

The Trustee shall be under no duty or responsibility with respect to any property or cash pledged and deposited with, or delivered or paid to, the trustee of the First Mortgage pursuant to any provision of the Mortgage; and during such period of time as the Mortgage shall contemplate that the

trustee of the First Mortgage shall hold, apply or otherwise deal with any such cash or property, or exercise authority or discretion with respect thereto, pursuant to the First Mortgage, the Trustee shall have no responsibility for any act or thing done or omitted, or any authority or discretion exercised, with respect to any such property or cash by the trustee under the First Mortgage; and the Trustee shall be entitled to give full credit to, and rely on, a statement of the trustee of the First Mortgage certifying to any of the foregoing matters.

Section 2. None of the provisions contained in the Mortgage shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers; but the Trustee, in its sole discretion and in order to preserve the mortgaged property, may advance moneys for the purpose of paying taxes, rentals or otherwise, and for such advances, together with interest thereon at the rate of 4% per annum, the Trustee shall have a lien on the mortgaged property prior to any claim of the Bondholders, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

Section 3. Should any taxes or other governmental charges be imposed upon the Trustee, in its capacity as Trustee hereunder, which it may be required to pay under any present or future law of the United States of America or of any other authority therein having jurisdiction, the Trustee shall be reimbursed and indemnified therefor by the Railroad Company, and any liability incurred or amounts paid by the Trustee in respect of any such taxes or other governmental charges, until paid, shall constitute a lien upon the mortgaged property prior to any claim of the holders of Bonds, except as

to funds held in trust for the benefit of the holders of particular Bonds or coupons.

SECTION 4. Except as herein otherwise provided, any notice or demand which by any provision of the Mortgage is required or permitted to be given or served by the Trustee or any other person on the Railroad Company, shall be deemed to have been sufficiently given and served for all purposes by being deposited, postage prepaid, in a United States Post Office letter-box or mail chute, addressed (until another address is filed by the Railroad Company with the Trustee and thereafter if addressed to such new address) as follows: Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Chicago, Illinois. Any notice, request or demand by any Bondholder to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or made at the principal office of the Trustee.

SECTION 5. The Trustee shall not be bound to recognize any person as the holder of a Bond outstanding hereunder unless and until the Bond is submitted to the Trustee for inspection if required, and the title thereto established to the satisfaction of the Trustee.

Except as provided in Section 7 of Article XI, the Trustee shall be under no duty to invest any moneys paid to or deposited with it or to its credit pursuant to any of the provisions of the Mortgage, and shall not be liable for interest on any moneys during the period such moneys remain on deposit with it, except such interest as the Trustee may agree with the Railroad Company to pay.

Any action at any time taken by the Trustee pursuant to or with respect to the Mortgage at the request or with the consent or approval (express or implied) of any person who

at the time is the holder of any Bond secured hereby, shall be conclusive and binding upon all future holders of such Bond.

All rights of action under the Mortgage may be enforced by the Trustee without the possession of any of the Bonds or the production thereof on the trial or other proceedings relative thereto.

SECTION 6. The recitals contained herein and in the Bonds shall be taken as the statements of the Railroad Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the value of the mortgaged property, or as to the title of the Railroad Company thereto, or as to the validity or sufficiency of the Mortgage or of the Bonds or coupons, except as contained in the Trustee's certificate of authentication endorsed on the Bonds. The Trustee shall not be accountable for the use or application by the Railroad Company of any of the Bonds or of the proceeds of such Bonds.

SECTION 7. The Trustee or any paying agent or bond registrar, in its individual or any other capacity, may become the owner or pledgee of Bonds or coupons with the same rights it would have if it were not such Trustee, paying agent or bond registrar.

SECTION 8. Subject to the provisions of Section 4 of Article XIX hereof, all moneys received by the Trustee hereunder, until used or applied as herein provided, and all moneys received by the Trustee as paying agent in respect of the Bonds of any series, shall be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law. So long as no Event of Default shall have occurred and be continuing, any interest allowed on any such moneys shall be paid

from time to time to or upon the written order of the Railroad Company, signed by its President or any Vice President.

SECTION 9. The Railroad Company covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to receive, reasonable compensation (which shall not be limited by the statutes of any state relating to the compensation of a trustee of an express trust), and the Railroad Company will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any of the provisions of the Mortgage (including the reasonable compensation and the expenses and disbursements of its counsel and of all persons not regularly in its employ) except any such expense, disbursement and advance as may arise from its negligence or bad faith. The Railroad Company also covenants to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on the part of the Trustee, arising out of or in connection with the acceptance or administration of the trusts created by the Mortgage, including the costs and expenses of defending itself against any claim of liability in the premises. The obligations of the Railroad Company under this Section 9 to compensate and indemnify the Trustee and to pay or reimburse the Trustee for expenses, disbursements and advances shall constitute additional indebtedness hereunder and shall be secured by the lien hereof prior to the claims of the holders of Bonds upon the mortgaged property, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

SECTION 10. Whenever in the administration of the trusts created by the Mortgage the Trustee shall deem it necessary or desirable that a matter be proved or established prior to

taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Trustee, and such Certificate shall be full warrant to the Trustee for any action taken, suffered or omitted by it under the provisions of the Mortgage upon the faith thereof.

SECTION 11. Any company into which the Trustee or any successor to it in the trusts created by the Mortgage may be merged, or with which it or any such successor may be consolidated, or any company resulting from any merger, conversion, or consolidation to which the Trustee or any such successor shall be a party, provided such company shall be a trust company or a banking corporation in good standing organized under the laws of the United States or of any State, and shall have an office in the City of Chicago, Illinois, or in the Borough of Manhattan, City of New York, New York, and shall have a capital and surplus aggregating at least $5,000,000, shall be the successor trustee under the Mortgage without the execution or filing of any paper or the performance of any further act on the part of the parties hereto. In case any of the Bonds shall have been authenticated but not delivered, any such successor trustee may adopt the certificate of authentication of Harris Trust and Savings Bank, or of any successor to it, as Trustee hereunder, and deliver the same so authenticated; and in case any of the Bonds shall not have been authenticated, any such successor trustee may authenticate such Bonds either in the name of any predecessor trustee or in its own name as such successor trustee, and in all such cases such certificate shall have the same full force which it is anywhere in the Bonds or the Mortgage provided that the certificate of the Trustee

shall have; provided, however, that the right to authenticate Bonds in the name of Harris Trust and Savings Bank shall extend only to its successor by merger, conversion or consolidation.

SECTION 12. The Trustee or any successor trustee may at any time resign and be discharged from the trusts hereby created by giving to the Railroad Company written notice of such resignation and specifying a date upon which such resignation shall take effect. Notice of such resignation shall be published once each week for two successive weeks, on days not more than 90 days nor less than 60 days prior to the date so specified, in a Daily Newspaper in the Borough of Manhattan, City of New York, New York, and in a Daily Newspaper in the City of Chicago, Illinois, and such resignation shall take effect on the date specified in said notice or on the date of the appointment of a successor trustee as hereinafter provided, whichever shall be earlier.

The Trustee or any successor trustee may be removed with or without cause at any time by the holders of a majority in principal amount of the Outstanding Bonds by the delivery to the Trustee or successor trustee, as the case may be, of an instrument or concurrent instruments signed by such holders or their attorneys-in-fact duly authorized. Any trustee who shall resign or be so removed shall be entitled to its reasonable compensation then accrued and unpaid and to reimbursement for proper expenses theretofore incurred and not previously reimbursed.

SECTION 13. In case at any time the Trustee or any successor trustee shall resign or shall be removed or shall become incapable of acting or shall be adjudged bankrupt or insolvent, or if a receiver of the Trustee or any successor, or of its property, shall be appointed, or if any public officer in the

exercise of his official powers shall take charge or control of the Trustee or any successor, or its property or affairs, or if a vacancy shall arise in the trusteeship under the Mortgage from any cause, a successor trustee or successor trustees may be appointed by the holders of a majority in principal amount of the Outstanding Bonds, by an instrument or concurrent instruments in writing signed and acknowledged by such holders or their attorneys-in-fact duly authorized and delivered to such new trustee hereunder, notification being given to the Railroad Company and the predecessor trustee; provided, however, that until a new trustee shall be appointed by the holders of Outstanding Bonds as aforesaid and shall accept such appointment, the Railroad Company, by an instrument duly executed and acknowledged by its proper officers, by authority of its Board of Directors, shall appoint a trustee to fill the vacancy until the appointment of a new trustee by such holders as herein authorized. The Railroad Company shall publish notice of any such appointment made by it or by the holders of Outstanding Bonds as aforesaid once each week for two successive weeks in a Daily Newspaper in the Borough of Manhattan, City of New York, New York, and in a Daily Newspaper in the City of Chicago, Illinois, the first publication in each such Daily Newspaper to be within 10 days after such appointment has been made. Any new trustee appointed by the Railroad Company shall, immediately and without further act, be superseded by a trustee appointed by the holders of Outstanding Bonds in the manner above provided if the appointment by such holders be made within one year after the first publication of the notice of the appointment of the new trustee by the Railroad Company.

Every trustee appointed under any of the provisions of this Section 13 shall be a trust company or a banking corporation

in good standing organized under the laws of the United States or of any State, having an office in the City of Chicago, Illinois, or in the Borough of Manhattan, City of New York, New York, and having a capital and surplus aggregating at least $5,000,000.

If in a proper case no appointment of a successor trustee shall be made by the holders of Outstanding Bonds pursuant to the foregoing provisions of this Section 13 within 6 months after the happening of any of the events set forth in the first paragraph of this Section 13, the holder of any Bond outstanding hereunder or any retiring trustee hereunder may apply to any court of competent jurisdiction to appoint a successor trustee. Said court may thereupon, after such notice, if any, as said court may deem proper and prescribe, appoint a successor trustee. Any trustee appointed by the Railroad Company shall, immediately and without further act, be superseded by a trustee appointed by any such court in the manner above provided, if such appointment by such court be made within 18 months after the first publication of the notice of the appointment of the new trustee by the Railroad Company. If application shall be made to any such court within such 18 months' period in this paragraph provided, the holders of Outstanding Bonds shall have no power to appoint a trustee as in this Section 13 provided unless such application shall be dismissed within one year after the first publication of the notice of the appointment of a new trustee by the Railroad Company.

Any successor trustee appointed hereunder shall execute, acknowledge and deliver to the predecessor trustee hereunder and to the Railroad Company an instrument in writing accepting such appointment hereunder, and thereupon said successor trustee, without any further act, deed or conveyance, shall become fully vested with all the estates, properties,

rights, powers, trusts, duties and obligations of its predecessor in trust hereunder, with like effect as if originally named as trustee herein; but the retiring trustee, nevertheless, on the written request of the Railroad Company or of the successor trustee, and upon payment of its unpaid compensation and expenses, if any, shall execute, acknowledge and deliver such instruments of conveyance and further assurances and do such other things as reasonably may be required for more fully and certainly vesting and confirming in said successor trustee all the right, title and interest of the retiring trustee in and to the mortgaged property and said rights, powers, trusts, duties and obligations; and the retiring trustee shall also, upon like request and upon payment of its unpaid compensation and expenses as aforesaid, pay over, assign and deliver to the successor trustee any money and other property subject to the lien of the Mortgage then held by it, and deliver any and all records, or copies thereof, in respect of the trusts hereunder which it may have, and upon request of any such successor trustee the Railroad Company shall execute, acknowledge and deliver any and all deeds, conveyances or other instruments in writing for more fully and certainly vesting in and confirming to such successor trustee said estates, properties, rights, powers and duties, provided, however, that such successor trustee shall not authenticate Bonds in the name of such predecessor trustee.

SECTION 14. If at any time or times it shall be necessary or prudent in order to conform to any law of any state in which the Railroad Company shall at the time hold any property subject to the lien of the Mortgage, or the Trustee shall be advised by counsel satisfactory to it that it is so necessary or prudent in the interest of the Bondholders, or if the holders of a majority in principal amount of the Bonds shall in writing so request the Trustee or the Railroad Company, the

Trustee and the Railroad Company shall execute and deliver all instruments and agreements necessary or proper to constitute another bank or trust company or one or more persons approved by the Trustee and the Railroad Company, either to act hereunder as co-trustee or co-trustees with respect to all or any of the property subject to the lien of the Mortgage, jointly with the Trustee, or to act hereunder as separate trustee or trustees with respect to any such property, any such bank, trust company or person so appointed being hereinafter referred to as an additional trustee. In the event the Railroad Company shall not have joined in the execution of such instruments and agreements within 30 days after the receipt of a written request from the Trustee so to do, or in case an Event of Default shall have occurred and be continuing, the Trustee may act under the foregoing provision of this Section 14 without the concurrence of the Railroad Company; and the Railroad Company hereby fully empowers the Trustee so to act and appoints the Trustee its agent and attorney to act for it under the foregoing provision of this Section 14 in either of such contingencies.

Every such additional trustee hereunder shall, to the extent permitted by law, be appointed and act, and the Trustee shall act, subject to the following provisions and conditions, namely:

(a) the Bonds shall be authenticated and delivered and all powers, duties, obligations and rights conferred upon the Trustee in respect of the custody, control and management of moneys, papers or securities, shall be exercised solely by Harris Trust and Savings Bank or its successor, as Trustee hereunder;

(b) all rights, powers, duties and obligations conferred or imposed upon the trustees or any of them shall be conferred and imposed upon and exercised or performed by Harris Trust and Savings Bank or its successor, as

Trustee, or by Harris Trust and Savings Bank or its successor, as Trustee, and such additional trustee jointly, except to the extent that under the law of any jurisdiction in which any particular act or acts are to be performed, Harris Trust and Savings Bank or its successor, as Trustee, shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties and obligations shall be exercised and performed by such additional trustee;

(c) no power hereby given to, or which it is hereby provided may be exercised by, any such additional trustee shall be exercised hereunder by such additional trustee except jointly with, or with the consent in writing of, Harris Trust and Savings Bank or its successor, as Trustee;

(d) no trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder;

(e) the Railroad Company and the Trustee at any time by an instrument in writing executed by them jointly may remove any such additional trustee, and in that case, by an instrument in writing executed by them jointly, may appoint a successor to such additional trustee. In the event that the Railroad Company shall not have joined in the execution of any such instrument within 10 days after the receipt of a written request so to do, or in case an Event of Default shall have occurred and be continuing, the Trustee shall have the power to remove any such additional trustee and to appoint a successor additional trustee without the concurrence of the Railroad Company; and the Railroad Company hereby empowers the Trustee to make such removal and appointment and appoints the Trustee its agent and attorney to act for it in such connection and in such contingency. In the event that the Trustee alone shall have appointed an additional trustee as above provided, it may at any time by an instrument in writing remove any such additional trustee, the successor to any such

additional trustee to be appointed by the Railroad Company and the Trustee, or by the Trustee alone, as hereinbefore in this Section 14 provided.

Subject to requirements of context and to the foregoing, the term "Trustee" appearing throughout the Mortgage shall be deemed to include each such additional Trustee.

SECTION 15. The Trustee is hereby appointed (and the successive holders of the Bonds, by taking and holding the same, shall conclusively be deemed to have so appointed the Trustee) the true and lawful attorney-in-fact of the respective holders of the Bonds, with authority to make or file, irrespective of whether the Bonds or any of them are in default as to payment of principal or interest, in the respective names of the holders of the Bonds and coupons or in behalf of all holders of the Bonds and coupons as a class, any proof of debt, amendment to any proof of debt, petition or other document, and to execute any and all other papers and documents and do and perform any and all other acts and things for and in behalf of the respective holders of the Bonds and coupons, or in behalf of all holders of the Bonds and coupons as a class, as may be necessary or advisable in the opinion of the Trustee in order to have the claims of the holders of the Bonds and coupons against the Railroad Company, or any successor, or any other person or corporation, allowed and paid in any equity receivership, insolvency, liquidation, bankruptcy, reorganization or other proceedings which shall involve the Railroad Company or the mortgaged property or any part thereof, and to receive payment of or on account of any such claim or claims; and any receiver, assignee or trustee in any such proceeding is hereby authorized by each of the Bondholders to make such payments to the Trustee. The appointment made and authority granted by this Section 15 may be revoked by any holder of Bonds or

coupons with respect to Bonds or coupons held by him at any time after institution of any such proceeding, by delivering notice of such revocation to the Trustee and filing a copy thereof in such proceeding. Nothing herein contained shall give the Trustee authority to assent to or reject on behalf of any holder of Bonds and coupons any plan of reorganization, plan of adjustment, or similar plan, proposed or approved in any such proceeding.

ARTICLE XVII

REMEDIES OF TRUSTEE AND BONDHOLDERS

SECTION 1. Except as provided in Section 3 of Article XX, the Railroad Company will not, directly or indirectly, extend or assent to the extension of the time for the payment of any coupon or claim for interest on any of the Bonds, and it will not, directly or indirectly, be a party to or approve any such arrangement by purchasing or refunding said coupons or claims for interest or in any other manner; and if the time for payment of any such coupon or claim for interest shall be so extended with the consent of the Railroad Company, such coupon or claim for interest shall not be entitled, in case of default hereunder, to the benefit of the security of the Mortgage, except subject to the prior payment in full of the principal of all Outstanding Bonds and all coupons and claims for interest thereon the payment of which shall not have been so extended; provided, that the foregoing provisions of this Section 1 shall not be applicable to any coupon or claim for interest the time for the payment of which shall have been extended, if such extension was made pursuant to a plan proposed by the Railroad Company to all holders of any one or more series of Bonds. If, at or after the maturity of Bonds, any coupons or claims for interest in respect of such Bonds shall be owned by the Railroad Company, or shall be purchased by it or on its behalf, then such matured coupons or claims for interest shall not be entitled to the benefit or security of the Mortgage, and the Railroad Company covenants that all such matured coupons and claims for interest shall be cancelled promptly upon such maturity if then owned by the Railroad Company or upon their purchase if purchased by or on behalf of the Railroad Company at or after such maturity.

SECTION 2. If one or more of the following events, herein called Events of Default, shall occur, that is to say:

(a) Default shall be made in the payment of any instalment of interest on any of the Outstanding Bonds when and as such interest shall become due and payable as therein and in the Mortgage expressed; or

(b) Default shall be made in the payment of the principal of any of the Outstanding Bonds, or the premium thereon payable on redemption thereof, when the same shall become due and payable either by the terms thereof or otherwise as herein provided; or

(c) Default shall be made in the observance or performance of any other of the covenants, conditions or agreements on the part of the Railroad Company, its successors or assigns, contained in the Bonds or in the Mortgage, and such default shall continue for 60 days (or in case of any default under a supplemental indenture for such other time, if any, as may be specified therein) after written notice specifying such default and requiring the same to be remedied shall have been given to the Railroad Company by the Trustee, which notice may be given by the Trustee in its discretion, and shall be given on the written request of the holders of 25% in principal amount of the then Outstanding Bonds; or

(d) A decree or order by a court having jurisdiction in the premises shall have been entered adjudging the Railroad Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization of the Railroad Company under the Bankruptcy Act or any other state or federal law, and such decree or order shall have continued undischarged or unstayed for 60 days; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver or liquidator or trustee in bankruptcy or insolvency of the Railroad Company or of its property, or any substantial portion of its property, or for the winding up or liquidation of its affairs, shall have been entered, and such de-

cree or order shall have remained in force undischarged and unstayed for 60 days; or

(e) The Railroad Company shall institute proceedings to be adjudged a voluntary bankrupt, or shall consent to the filing of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking reorganization or readjustment under the Bankruptcy Act or any other state or federal law, or otherwise invoke any law for the aid of debtors, or shall consent to the filing of any such petition, or shall consent to the appointment of a receiver or liquidator or trustee in bankruptcy or insolvency of it or of its property or any substantial portion of its property, or shall make an assignment for the benefit of creditors; or shall admit in writing its inability to pay its debts generally as they become due, or corporate action shall be taken by the Railroad Company in furtherance of any of the aforesaid purposes; or

(f) An Event of Default as defined in the First Mortgage shall occur and be continuing;

then, and in each and every such case, the Trustee personally or by its agents or attorneys, to the extent permitted by law, may, but shall not be obligated to, enter into and upon all or any part of the mortgaged property, and each and every part thereof, and may exclude the Railroad Company, its agents and servants wholly therefrom; and having and holding the same may use, operate, manage and control the mortgaged property or any part thereof, and conduct the business of the Railroad Company, either personally or by the Railroad Company's superintendents, managers, agents, servants, attorneys, receivers or trustees, in such manner as the Trustee may deem to be to the best advantage of the Bondholders, and upon every such entry the Trustee, at the expense of the mortgaged property, from time to time, either by purchase, repair or construction, may maintain and restore the rolling stock, tools and machinery and other property, buildings, bridges

and structures erected upon or provided for use in connection with said railways and other premises whereof it shall become possessed as aforesaid, and may insure or keep insured such of the same as are usually insured by railway companies and in the same manner and to the same extent; and likewise from time to time, at the expense of the mortgaged property, may make all necessary or proper repairs, renewals and replacements and useful alterations, additions, betterments and improvements to and on the mortgaged property, and purchase or otherwise secure the use of additional engines, rolling stock, tools, machinery and other property for use thereon, as to it may seem judicious; and, in such case, the Trustee shall have the right to manage the mortgaged property and to carry on the business and exercise all rights and powers of the Railroad Company with respect thereto, either in the name of the Railroad Company or otherwise, as the Trustee shall deem best; and shall be entitled to collect and receive all rates, fares, tolls, earnings, incomes, rents, issues, revenues and profits of the same and every part thereof, including the income from stock, bonds or other obligations subject to the Mortgage; and after deducting the expenses of operating said railways and other premises, and of conducting the business thereof, and of all repairs, maintenance, renewals, replacements, alterations, additions, betterments and improvements, and all payments which may be made for taxes, assessments, insurance and prior or other proper charges upon the mortgaged property, or any part thereof, as well as just and reasonable compensation for its own services and for the services of all attorneys, counsel, agents, clerks, servants and other employees by it properly engaged and employed, the Trustee shall apply the rest and residue of the moneys arising as aforesaid as follows:

(i) If the principal of none of the Outstanding Bonds shall have become due and be unpaid, to the payment of

the interest on the Outstanding Bonds, in the order of the maturity of the instalments of such interest, such payments to be made proportionately to the persons entitled thereto without discrimination or preference.

(ii) If the principal of all or any part of the Bonds shall have become due, by declaration or otherwise, and shall be unpaid, *first* to the payment of interest accrued on the Outstanding Bonds prior to the date upon which the principal of said Bonds became due and payable, in the order of the maturity of the instalments of such interest, and *second* to the payment of interest on the overdue principal of said Bonds at the highest rate of interest borne by any of the Outstanding Bonds, and *third* (subject to the provisions of Section 4 of this Article XVII), to the payment of the principal of all of said Bonds, whether due or not; in every instance such payments to be made proportionately to the persons entitled thereto without discrimination or preference.

These provisions, however, are not intended to and shall not be deemed in any wise to modify the provisions of Section 1 of this Article XVII but are subject thereto.

Section 3. If the Trustee, under the powers in the Mortgage granted, or a receiver or any trustee appointed under the provisions of the Bankruptcy Act, or any other state or federal law, shall have entered into possession of the mortgaged property, or a part thereof, or one or more Events of Default shall have occurred and be continuing, the Trustee (to the extent permitted by law) shall be entitled to exercise, while such default shall continue, all right and power to vote and consent with respect to all shares of stock, bonds and other obligations subject to the lien of the Mortgage, and, for the benefit of the Bondholders, shall be entitled to collect and receive all dividends on all shares of stock and all sums payable for principal, interest or otherwise upon

any bonds or other obligations that shall then be subject to the Mortgage and shall apply, as hereinbefore in Section 2 of this Article XVII provided, any moneys so received; and, as the holder of any such shares of stock, bonds or other obligations, shall be entitled to perform any and all acts, or to make and execute any and all transfers, requests, requisitions or other instruments, for the purpose of carrying out the provisions of this Section 3.

Section 4. In case one or more Events of Default shall have occurred and be continuing, then in each and every such case, unless the principal of all the Outstanding Bonds already shall have become due and payable, the Trustee may, and upon the written request of the holders of 25% in principal amount of the Outstanding Bonds shall, by notice in writing mailed to the Railroad Company, declare the principal of all Bonds to be forthwith due and payable, and upon any such declaration the same shall become and be forthwith due and payable, together with all accumulations of unpaid interest, if any, notwithstanding the date of maturity thereof as stated in such Bonds or in the coupons, if any, pertaining thereto, or in the Mortgage. This provision, however, is subject to the condition that, if at any time after the principal of the Bonds shall have been so declared due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided or any sale of the mortgaged property or any part thereof shall have been made, all unpaid interest upon all Outstanding Bonds, and the principal (and premium, if any) of any Outstanding Bonds which shall have become due otherwise than by acceleration under this Section 4, and the reasonable charges and expenses of the Trustee, its agents and attorneys, shall either be paid by the Railroad Company or be collected out of the income

of the mortgaged property, or be provided for by the deposit with the Trustee of a sum sufficient to pay the same, and all other defaults made good to the satisfaction of the Trustee, then and in every such case the holders of two-thirds in principal amount of the Outstanding Bonds, by written notice to the Railroad Company and to the Trustee, may waive such default or defaults and its or their consequences and annul such declaration of the maturity of the Bonds, but no such waiver or annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

In case the Trustee shall have proceeded to enforce any right under the Mortgage, by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned because of such waiver or annulment, or for any other reason, or shall have been determined adversely to the Trustee, then and in every such case the Railroad Company and the Trustee shall be restored to their former position and rights hereunder in respect of the mortgaged property, and all rights, remedies and powers of the Railroad Company and of the Trustee shall continue thereafter as though no such proceedings had been taken.

Section 5. In case one or more Events of Default shall have occurred and be continuing, the Trustee, with or without entry, personally or by attorney, in its discretion:

(a) If and to the extent permitted by law, may but shall not be obligated to sell, subject to any prior liens thereon, to the highest bidder, all and singular the mortgaged property, and all right, title and interest, claim and demand therein, free from any right of redemption thereof, in one parcel and as an entirety, except as in Section 6 of this Article XVII provided; which sale or sales shall be made at public auction at such place in the City of Chicago, Illinois, or at such other place or places, and at such time and upon such terms, as the

Trustee may fix and briefly specify in the notice of sale to be given as hereinafter in Section 7 of this Article XVII provided; or

(b) May proceed to protect and to enforce its rights and the rights of holders of the Outstanding Bonds by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or for the foreclosure of the Mortgage, or for the enforcement of any other appropriate legal or equitable remedy, as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce any of its rights or duties and the rights of holders of the Outstanding Bonds.

Upon the written request of the holders of not less than 25% in principal amount of the then Outstanding Bonds, in case any Event of Default shall have occurred and be continuing as aforesaid, it shall be the duty of the Trustee, upon being indemnified as hereinafter provided, to exercise such one or more of the remedies available for the protection and enforcement of its rights and the rights of the Bondholders (including the exercise of the powers of entry or sale herein conferred, or the taking of appropriate judicial proceedings by action, suit or otherwise) as the Trustee, being advised by counsel, shall deem most expedient in the interest of the Bondholders.

Section 6. In the event of any sale, whether made under the power of sale herein granted or conferred, or under or by virtue of judicial proceedings, or of some judgment or decree of foreclosure and sale, the whole of the mortgaged property shall be sold in one parcel and as an entirety, unless such sale as an entirety is impracticable in the opinion of the Trustee by reason of some statute or other circumstance, or unless the holders of a majority in principal amount of the Outstanding

Bonds shall in writing request the Trustee to cause said premises to be sold in parcels, in which case the sale shall be made in such parcels and in such order as may be specified in such request.

The Railroad Company, for itself and all persons and corporations hereafter claiming through or under it, or who may at any time hereafter become holders of liens junior to the lien of the Mortgage, hereby expressly waives and releases all right to have the mortgaged property marshalled upon any foreclosure or other enforcement hereof, and the Trustee or any court in which the foreclosure of the Mortgage or the administration of the trusts hereby created is sought shall have the right as aforesaid to sell the entire property of every description comprised in the mortgaged property, as a whole in a single lot or parcel.

Section 7. Notice of any sale pursuant to any provision of the Mortgage shall state the time and place of said sale, and shall contain a brief general description of the property to be sold, and shall be sufficiently given if published once in each week for 4 successive weeks prior to such sale in a Daily Newspaper in the Borough of Manhattan, City of New York, New York, and in a Daily Newspaper in the City of Chicago, Illinois, and in such other manner as may be required by law.

Section 8. The Trustee may adjourn from time to time any sale to be made by it under the provisions of the Mortgage, by announcement at the time and place appointed for such sale, or for such adjourned sale or sales, and without further notice or publication (unless otherwise required by law) such sale may be made at any time or place to which the same shall be so adjourned.

Section 9. Upon the completion of any sale or sales under the Mortgage, the Trustee or the court officer conducting the

sale shall execute and deliver to the accepted purchaser or purchasers a good and sufficient bill or bills of sale and deed or deeds of conveyance of the property and franchises sold. The Trustee and its successors are hereby irrevocably appointed the true and lawful attorneys of the Railroad Company, in its name and stead to make all necessary deeds, bills of sale and conveyances of the property and franchises and all necessary transfers of shares of stock or bonds or other obligations thus sold; and may substitute one or more persons with like power, the Railroad Company hereby ratifying and confirming all that its said attorney or attorneys, or such substitute or substitutes, shall lawfully do by virtue hereof. Nevertheless, the Railroad Company, if so requested by the Trustee, shall ratify such sale by executing and delivering such deeds of conveyance, bills of sale or other instruments of assignment and transfer, as in the judgment of the Trustee may be advisable.

Any such sale or sales made under or by virtue of the Mortgage, whether under the power of sale hereby granted and conferred, or under or by virtue of any judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Railroad Company, of, in and to the premises and property sold, and shall be a perpetual bar, both at law and in equity, against the Railroad Company, its successors and assigns, and against any and all persons claiming the premises and property sold, or any part thereof, from, through or under the Railroad Company, its successors or assigns.

The personal property and chattels conveyed, or intended to be conveyed, by or pursuant to the Mortgage, other than stocks and bonds and other obligations or securities or claims, shall be real property for all the purposes of the Mortgage, and shall be held and taken to be fixtures and appurtenances of the Railroad Company's lines of railroad and a part

thereof, and are to be used and sold therewith and not separate therefrom, except as herein otherwise provided.

The receipt of the Trustee for the purchase money paid at any such sale, or the receipt of any other person authorized to receive the same, shall be a sufficient discharge therefor to any purchaser of the property, or any part thereof, sold as aforesaid, and no such purchaser, or his representatives, grantees or assigns, after paying such purchase money and receiving such receipt, shall be bound to see to the application of such purchase money or any part thereof upon or for any trust or purpose of the Mortgage, or, in any manner whatsoever, be answerable for any loss, misapplication or nonapplication of any such purchase money, or any part thereof, or be bound to inquire as to the authorization, necessity, expediency or regularity of any such sale.

Section 10. In case of a sale of the mortgaged property substantially as a whole under any of the foregoing provisions of this Article XVII, whether made under the power of sale hereby granted or pursuant to judicial proceedings, the principal of all Bonds then outstanding, if not previously due, immediately thereupon shall become due and payable, notwithstanding the date of maturity thereof as stated in such Bonds or in the Mortgage.

Section 11. The purchase money, proceeds and avails of any such sale, whether made under the power of sale hereby granted or pursuant to judicial proceedings, together with any other sums which then may be held by or for the Trustee under any of the provisions of the Mortgage as part of the mortgaged property or of the proceeds thereof, shall be applied as follows:

First. To the payment of the costs and expenses of such sale, the reasonable compensation to the Trustee,

its agents, attorneys and counsel, all expenses, liabilities and advances made or incurred by the Trustee, except such as may have arisen by its negligence or bad faith, and the payment of all taxes, assessments or liens prior to the lien of the Mortgage, except taxes, assessments and prior liens, if any, subject to which the property shall have been sold.

Second. To the payment of the whole amount then due and unpaid upon the Outstanding Bonds for principal and interest, with interest on the overdue principal at the highest rate of interest borne by any of the Outstanding Bonds, and in case such moneys shall be insufficient to pay in full the whole amount so due and unpaid upon the Outstanding Bonds, then to the payment of such principal and interest proportionately, according to the aggregate of such principal and accrued and unpaid interest, without preference or priority of any Oustanding Bond over any other Outstanding Bond of the same or of another series or of principal over interest, or of interest over principal, or of any instalment of interest over any other instalment of interest, subject, however, to the provisions of Section 1 of this Article XVII.

Third. To the payment of the surplus, if any, to the Railroad Company, its successors or assigns, or to whosoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

Section 12. In case of any sale under the foregoing provisions of this Article XVII, whether made under the power of sale hereby granted or pursuant to judicial proceedings, any purchaser, for the purpose of making settlement or payment for the property purchased, shall be entitled to use and apply any Bonds and any matured and unpaid coupons and interest obligations hereby secured, subject to the provisions of Section 1 of this Article XVII, by presenting such Bonds and coupons in order that there may be credited as paid thereon the sums payable out of the net proceeds of such sale

to the holder or registered owner of such Bonds and coupons, as his proportionate share of such net proceeds; and such purchaser shall be credited on account of the purchase price payable by him with the sums payable out of such net proceeds which shall be applicable to the payment of and which shall have been credited, upon the Bonds and coupons so presented; and, at any such sale, any Bondholder may bid for and purchase such property, and may make payment therefor as aforesaid, and, upon compliance with the terms of said sale, may hold, retain and dispose of such property without further accountability therefor.

SECTION 13. The Railroad Company covenants that (a) if default shall be made in the payment of any interest on any Outstanding Bonds, or (b) if default shall be made in the payment of the principal of any Outstanding Bonds, or the premium thereon payable on redemption thereof, when the same shall become due and payable, whether at the maturity of such Bonds, upon redemption, by declaration or by a sale of the mortgaged property, or otherwise, then, upon demand of the Trustee, the Railroad Company will pay to the Trustee for the benefit of the holders of such Bonds and coupons the whole amount then due and payable on such Bonds and coupons, for principal (and premium, if any) or interest, or both, as the case may be, with interest on the overdue principal at the highest rate of interest borne by any of the Outstanding Bonds; and in case the Railroad Company shall fail to pay the same forthwith upon such demand, the Trustee, in its own name and as Trustee of an express trust, shall be entitled to recover judgment for the whole amount so due and unpaid.

The Trustee shall be entitled to institute and prosecute any action and enforce any judgment or final decree as aforesaid, either before or after or during the pendency of any proceedings for the enforcement of the lien of the Mortgage, and the right of the Trustee to such judgment or final decree shall not be affected by any entry or sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the provisions of the Mortgage or the foreclosure of the lien hereof; and in case of a sale of the mortgaged property or any part thereof, the Trustee, in its own name and as trustee of an express trust, shall be entitled to enforce payment of, and to receive, all amounts then remaining due and unpaid upon any and all of the Bonds and coupons, for the benefit of the holders thereof, and shall be entitled to institute and prosecute any action and enforce any judgment or final decree as aforesaid for any portion of the said debt remaining unpaid, with interest. No judgment or decree obtained by the Trustee, and no levy of any execution upon the mortgaged property, or upon any other property, shall in any manner, or to any extent, affect the lien of the Mortgage upon the mortgaged property, or any part thereof, or any lien, rights, powers or remedies of the Trustee hereunder, or any lien, rights, powers or remedies of the Bondholders, but such lien, rights, powers and remedies shall continue unimpaired as before, except as otherwise provided by law.

Any moneys collected by the Trustee under this Section 13 shall be applied by the Trustee,

First, to the payment of the costs and expenses of the proceedings resulting in the collection of such moneys, and of the compensation of and the expenses, liabilities and advances made or incurred by the Trustee hereunder, except such as may have arisen by its negligence or bad faith; and

Second, to the payment of the amounts then due and unpaid upon the Outstanding Bonds and coupons in respect of which such moneys shall have been collected, without any preference or priority of any kind, but subject to the provisions of Section 1 of this Article XVII, proportionately according to the amounts due and payable upon such Outstanding Bonds and coupons, respectively, at the date fixed by the Trustee for distribution of such moneys, upon presentation of the several Outstanding Bonds and coupons and their surrender if fully paid, or for proper stamping if only partially paid.

SECTION 14. The Railroad Company will not at any time insist upon or plead, or claim to take advantage of any statute or rule of law, now or hereafter in force, wherever enacted or established, in aid of debtors or permitting or providing for (a) the staying of actions in respect of mortgages or mortgage indebtedness, or for extending the time for payment of such indebtedness; (b) the valuation or appraisement of the property held under any mortgage or pledge to secure indebtedness prior to any sale or sales thereof pursuant to the terms of such mortgage or pledge or to the decree, judgment or order of any court; or (c) the redemption of any property so sold; and the Railroad Company hereby expressly waives all benefit and advantage of any such statute or rule of law, and covenants that it will not hinder, delay or impede the execution of any power herein granted or delegated to the Trustee, but that it will suffer and permit the execution of every such power, as though no such statute or rule of law had been enacted or established.

SECTION 15. In case (1) an Event of Default shall occur and (a) at any time during the continuance of such Event of Default there shall be any existing judgment against the Railroad Company unsatisfied and unsecured by bond on appeal or (b) in any judicial proceeding by any party other than the Trustee, a receiver shall be appointed of the Railroad Company or of its property or any part thereof, or a judgment or order be entered for the sequestration of its property or any part thereof; or, in case (2) the Railroad Company shall make default in the payment of interest specified in clause (a) of Section 2 of this Article XVII, and shall by resolution of its Board of Directors admit to the Trustee its inability to make good such default; then the Trustee, in either such case, shall thereupon be entitled, in the discretion of the Trustee, forthwith to exercise the right of entry herein conferred and also any and all other rights and powers herein conferred and provided to be exercised by the Trustee upon the happening and continuance of an Event of Default as hereinbefore provided; and the Trustee shall thereupon be entitled as a matter of right (i) to the appointment of a receiver of the mortgaged property and of the earnings, rents, issues, profits, tolls, revenues and income thereof, with such powers as the court making such appointment shall confer, and (ii) to the entry of an order directing that the rents, issues, profits, tolls, revenues and other income of the premises and property comprised in the mortgaged property be segregated, sequestered and impounded for the benefit of the Trustee and the Bondholders from and after the date of the institution of any judicial proceedings of the nature referred to in this Section 15 or in clauses (d) and (e) of Section 2 of this Article XVII. Notwithstanding the appointment of any such receiver, the Trustee, as pledgee, shall be entitled to retain possession and control of, and to collect all interest and dividends or earnings on, any shares of stock, cash, bonds and other obligations pledged with it as security hereunder.

The Railroad Company hereby irrevocably consents to the appointment of such receiver and to the entry of such order.

SECTION 16. Upon application of the Trustee to any court of competent jurisdiction, and with the consent of the Railroad Company if none of the Events of Default shall have occurred and be continuing, and without such consent if one or more of the Events of Default shall have occurred and be continuing, a receiver may be appointed to take possession of, and to operate, maintain and manage the mortgaged property or any part thereof, and any other property of the Railroad Company used for, in or about, or the use or possession whereof shall be essential to, the operation of the mortgaged railroads or any thereof, and the Railroad Company shall transfer and deliver to such receiver all such property, wheresoever the same may be situated; and in every case when a receiver of the whole or of any part of said property shall be appointed under this Section 16, or otherwise, the net income and profits of the mortgaged property shall be paid over to, and shall be received by, the Trustee for the benefit of the holders of the Outstanding Bonds and coupons to be applied as provided in Section 2 of this Article XVII; provided, however, that, notwithstanding the appointment of any such receiver, the Trustee shall be entitled to retain control of, and to collect all interest and dividends or earnings on, any shares of stock, cash, bonds and other obligations pledged with it as security hereunder.

SECTION 17. No holder of any Bond or coupon shall have any right to institute any suit, action or proceeding in equity or at law for the foreclosure of the Mortgage, or for the execution of any trust hereunder, including the appointment of a receiver, or for any other remedy hereunder, unless (a) such holder previously shall have delivered to the Trustee written notice that one or more Events of Default, which default or defaults shall be specified in such notice, has occurred and is continuing, and (b) the holders of not less than 25% in principal amount of the then Outstanding Bonds shall have requested the Trustee in writing and shall have afforded to it reasonable opportunity either to proceed to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name, and (c) one or more holders of Bonds shall have offered to the Trustee adequate security and indemnity, satisfactory to it, against the costs, expenses and liabilities to be incurred therein or thereby, nor unless the Trustee shall have refused or neglected to act on such notification, request and offer of indemnity for at least 30 days; and such notification, request and offer of indemnity are hereby declared, in every such case, at the option of the Trustee, to be conditions precedent to the exercise of the powers and trusts of the Mortgage and to any action or cause of action for foreclosure, including the appointment of a receiver or trustee, or for any other remedy hereunder; it being understood and intended that no holder of any Bond or coupon shall have any right in any manner whatsoever by his action to affect, disturb or prejudice the lien of the Mortgage or to enforce any right hereunder, except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had or maintained in the manner herein provided, and for the equal benefit of all holders of the Outstanding Bonds and coupons.

Nothing contained in this Section 17 or elsewhere in the Mortgage or in the Bonds or in the coupon shall affect or impair the obligation of the Railroad Company, which is unconditional and absolute, to pay the principal of, premium, if any, and interest on the Bonds to the respective holders of the Bonds and to the respective holders of the coupons, as provided in such Bonds, nor affect or impair the right of action at law, which is also absolute and unconditional, of such holders to collect such payment.

SECTION 18. Except as herein expressly provided to the contrary, no remedy herein conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy or remedies, but each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

SECTION 19. No delay of the Trustee or of any Bondholder in exercising any right or power accruing upon any default continuing as aforesaid and no omission to exercise any such right or power shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by this Article XVII to the Trustee, or to any Bondholder, may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by such Bondholder, respectively.

SECTION 20. The Trustee shall have power, but shall be under no duty, to institute and maintain suits or proceedings to restrain the enforcement of, or compliance with, or the observance of, any legislative or governmental enactment, rule or order that it may be advised and believe is unconstitutional, or otherwise invalid, if the enforcement of, or compliance with, or observance of, such enactment, rule or order would, in the judgment of the Trustee, impair the security hereunder or be prejudicial to the Trustee or to the Bondholders.

SECTION 21. The holders of a majority in aggregate principal amount of the Outstanding Bonds shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or the exercise or non-exercise of any trust or power conferred on the Trustee. The holders of a majority in aggregate principal amount of the Outstanding Bonds may on behalf of the holders of all of the Bonds waive any past default hereunder and its consequences except an Event of Default specified in clauses (a) or (b) of Section 2 of this Article XVII. In the case of any such waiver, the Railroad Company, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

SECTION 22. All parties to the Mortgage agree, and each holder of any Bond by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Mortgage, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion 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 such party litigant; but the provisions of this Section 22 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Bondholder or group of Bondholders holding more than 10% in aggregate principal amount of the Outstanding Bonds, or to any suit instituted by any Bondholder for the enforcement of the payment of the principal of or interest on any Bond, on or after the due date expressed in such Bond.

SECTION 23. To the extent that any provision of this Article XVII may be invalid or unenforceable under any applicable law with respect to any of the mortgaged property, such provision shall be deemed inoperative and inapplicable.

ARTICLE XVIII

Immunity of Incorporators, Stockholders, Directors and Officers

The Mortgage and the Bonds and coupons are solely corporate obligations. No recourse shall be had for the payment of the principal of or the interest on any Bond, or for any claim based thereon or on any coupon appurtenant thereto, or because of the creation of the indebtedness represented thereby, or otherwise in respect thereof, or based on or in respect of the Mortgage, against any past, present or future incorporator, stockholder, officer or director of the Railroad Company, as such, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability, by the acceptance of such Bond and as part of the consideration for the issuance thereof, being expressly waived and released.

ARTICLE XIX

Defeasance

Section 1. If (a) the Railroad Company shall deliver to the Trustee for cancellation all Bonds and appurtenant coupons not theretofore cancelled and delivered to the Trustee, or (b) all Bonds not theretofore delivered to the Trustee cancelled or for cancellation shall have become due and payable, or are by their terms to become due and payable within 90 days or are to be redeemed within 90 days under arrangements satisfactory to the Trustee for the giving of notice of redemption, and the Railroad Company shall deposit with the Trustee as trust funds an amount sufficient to pay at maturity or upon redemption all of the Bonds not theretofore delivered to the Trustee cancelled or for cancellation, including the principal thereof, premium, if any, and the full amount of unpaid interest which has or will become due to such date of maturity or redemption, as the case may be, and if in either case the Railroad Company shall also pay or cause to be paid all other sums payable hereunder by the Railroad Company, then the Mortgage shall cease to be of further effect. In such event the Trustee, on demand of the Railroad Company and at its cost and expense, shall execute and deliver to the Railroad Company such instrument or instruments as may be appropriate to acknowledge satisfaction of the Mortgage, and as will enable the Railroad Company to have the Mortgage discharged of record, and shall release and assign, or cause to be released and assigned, to the Railroad Company all of its interest in the mortgaged property, and shall deliver to the Railroad Company or upon its order all securities and moneys then held by the Trustee under the provisions hereof other than the money deposited as above provided in this Article XIX.

The Railroad Company, notwithstanding the satisfaction of the Mortgage as above provided, will indemnify the Trustee and hold it harmless against any and all expense or liability, incurred without negligence or bad faith, ascertained or incurred by the Trustee after the satisfaction thereof arising out of or based upon any matter connected with the trust created by the Mortgage.

Section 2. All moneys deposited with the Trustee pursuant to Section 1 of this Article XIX shall be held in trust and applied by it to the payment to the holders of the Bonds and coupons of all sums due and to become due thereon for principal and interest and premium, if any.

Section 3. Upon the satisfaction and discharge of the Mortgage, all moneys then held by any paying agent under any provision of the Mortgage shall be paid to the Trustee, and thereupon such paying agent shall be released from all further liability with respect to such moneys.

Section 4. Any moneys deposited by the Railroad Company with the Trustee or with any paying agent for the payment of the principal of, or the premium or interest on, any Bond which shall remain unclaimed by the holder of the Bond or coupon entitled to receive the same for 10 years after the date upon which the principal of such Bond shall have become due and payable (upon redemption or otherwise) shall be repaid to the Railroad Company on demand; and the holder of any Bond or coupon entitled to receive such payment shall thereafter look only to the Railroad Company for the payment thereof; provided, however, that (a) before any such repayment may be made, the Trustee, at the expense of the Railroad Company, shall cause to be published once a week for two successive calendar weeks (in each case on any day

of the week) in a Daily Newspaper in the Borough of Manhattan, City of New York, New York, and in a Daily Newspaper in the City of Chicago, Illinois, a notice that said moneys have not been claimed and that after a date named therein any balance of said moneys then remaining will be returned to the Railroad Company, and (b) the amount of such repayment shall be limited to the balance of such moneys unclaimed at the close of business on such date.

ARTICLE XX

Supplemental Indentures

Section 1. The Railroad Company, when authorized by a resolution of its Board of Directors, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto for one or more of the following purposes:

(a) To convey, transfer and assign to the Trustee and subject to the lien of the Mortgage, with the same force and effect as though included in the granting clauses hereof, additional property then owned by the Railroad Company, acquired through consolidation, merger, purchase or otherwise;

(b) To evidence the succession of another corporation to the Railroad Company, or successive successions, and the assumption by the successor corporation of the covenants, agreements and obligations of the Railroad Company pursuant to Article XII;

(c) To set forth the terms and provisions of any series of Bonds to be issued hereunder and the form of the Bonds and coupons of such series;

(d) To add to the covenants of the Railroad Company such further covenants for the protection of the mortgaged property and the Bondholders as the Board of Directors and the Trustee shall consider to be for the protection of the Bondholders, and to make the occurrence and continuance of a default under any of such additional covenants a default permitting the enforcement of all or any of the several remedies provided in the Mortgage; provided, however, that in respect of any such additional covenant, such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement of said remedy or remedies upon

such default or may limit the remedies available to the Trustee upon such default or may authorize the holders of not less than a majority in aggregate principal amount of the Outstanding Bonds to waive such default and prescribe limitations on such rights of waiver; and

(e) To cure any ambiguity or to correct or supplement any provision contained in the Mortgage which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make such other provisions in regard to matters or questions arising under the Mortgage as shall not be inconsistent with the provisions of the Mortgage and shall not adversely affect the interest of the Bondholders.

The Trustee is hereby authorized to join with the Railroad Company in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer and assignment of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which, in its opinion, affects the Trustee's own rights, duties or immunities under the Mortgage or otherwise.

Any supplemental indenture authorized by the provisions of this Section 1 may be executed by the Railroad Company and the Trustee without the consent of the holders of any of the then Outstanding Bonds, notwithstanding any of the provisions of Section 2 of this Article XX.

Section 2. With the consent (evidenced as provided in Section 1 of Article XIV) of the holders of not less than 66⅔% in aggregate principal amount of the Outstanding Bonds to be directly affected thereby, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the Railroad

Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time, by entering into an indenture or indentures supplemental hereto, may:

(a) modify, alter, add to or eliminate any of the provisions of the Mortgage or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, except as provided in Section 3 of this Article XX;

(b) sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property whether such right shall arise under the provisions of the Mortgage or otherwise;

(c) sanction and approve any plan for the reorganization, readjustment or liquidation of the Railroad Company;

provided, however, that no such modification, alteration, addition, elimination, sanction or approval shall, without in each case the consent of the holders of all Bonds affected thereby,

(i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on any Bonds, or change the place or medium of payment thereof; or

(ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage with respect to any property covered thereby except as in the Mortgage otherwise expressly provided; or

(iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds;

and provided further that no such modification, alteration, addition or elimination shall affect the rights, duties or im-

munities of the Trustee without the written consent of the Trustee.

It shall not be necessary for the consent of the Bondholders under this Section 2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Section 3. With the consent (evidenced as provided in Section 1 of Article XIV) of the holders of not less than 75% in aggregate principal amount of all of the then Outstanding Bonds, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the Railroad Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time, by entering into an indenture or indentures supplemental hereto, may:

(a) extend the time or times of payment of the principal, either before or after the principal is due, of the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, or

(b) extend the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 5 years after such interest is due, but in no event beyond the original or extended date or dates for the payment of the principal of such Bonds.

Section 4. Upon the request of the Railroad Company, accompanied by a Certified Resolution authorizing the execution of any supplemental indenture pursuant to the preceding Sections of this Article XX, and upon the filing with the

Trustee of evidence of the consent of Bondholders as aforesaid, the Trustee shall join with the Railroad Company in the execution of such supplemental indenture.

SECTION 5. Upon the execution of any supplemental indenture pursuant to the provisions of this Article XX, the Mortgage shall be and be deemed to be modified and amended in accordance therewith and the respective rights, duties and obligations under the Mortgage of the Railroad Company, the Trustee and the holders of Bonds of all series outstanding thereunder shall thereafter be determined, exercised and enforced hereunder subject in all respect to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of the Mortgage for any and all purposes.

SECTION 6. Bonds authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article XX may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Railroad Company or the Trustee shall so determine, new Bonds so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any modification of the Mortgage contained in any such supplemental indenture may be prepared by the Railroad Company, authenticated by the Trustee and delivered without expense to the holders of Bonds of the same series then outstanding, upon surrender of such Bonds accompanied, in the case of coupon Bonds, by all unmatured coupons and all unpaid matured coupons which shall be appurtenant thereto, the new Bonds so issued to be of an aggregate principal amount equal to the aggregate principal amount of those so surrendered.

ARTICLE XXI

MISCELLANEOUS

SECTION 1. The same officer or officers of the Railroad Company, or the same engineer, accountant or counsel or other person, as the case may be, need not certify to all the matters required to be certified under the provisions of any Article or Section of the Mortgage, but different officers, engineers, accountants, counsel or other persons may certify to different matters respectively.

SECTION 2. Each Officers' Certificate or Opinion of Counsel required to be given responsive to a specified condition or covenant provided for in the Mortgage shall include: (1) a statement that the person making such certificate or giving such opinion has read such covenant or condition; (2) 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 (3) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

SECTION 3. Except as otherwise expressly provided herein, nothing in the Mortgage or in any of the Bonds or coupons, express or implied, is intended or shall be construed to confer upon or give to any person, firm or corporation other than the parties hereto and the holders from time to time of the Bonds or coupons issued under the Mortgage any security, right, remedy or claim, legal or equitable, under or by reason of the Mortgage, or under or by reason of any covenant, condition or stipulation herein contained; and the Mortgage and all covenants, conditions and provisions herein contained are and shall be held to be for the sole and ex-

clusive benefit of the parties hereto and the holders from time to time of the Bonds and coupons issued hereunder.

SECTION 4. The Railroad Company shall be entitled to obtain from the Trustee from time to time such certificates and statements of the latter as to matters related to the Mortgage which are within its knowledge as the Railroad Company shall find it necessary or advisable to file with the trustee of the First Mortgage for any of the purposes thereof.

SECTION 5. The Mortgage may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 6. The Mortgage is dated as of January 1, 1944, although executed and delivered on the date of the acknowledgment hereof by the Trustee; and the same shall be effective by order of the Court in the reorganization proceedings hereinbefore mentioned as of 12:01 A.M., Central Standard Time, on December 1, 1945.

IN WITNESS WHEREOF, CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, the party of the first part, has caused the Mortgage to be signed and acknowledged by its President or one of its Vice Presidents, and its corporate seal to be affixed hereunto, and the same to be attested by its Secretary or its Assistant Secretary; and Harris Trust and Savings Bank, the party of the second part, to evidence its acceptance of the trust hereby created, has caused the Mortgage to be signed and acknowledged by one of its Vice Presidents and its corporate seal to be affixed hereunto and the same to be attested by one of its Assistant Secretaries.

Executed and delivered in the City of Chicago, State of Illinois, the 4th day of December, 1945, as of the day and year first written above.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,

By H. A. Scandrett
President

Attest: T. W. Burtness
Secretary

In the presence of
Ray Barrett
Hildred K. Hartt

HARRIS TRUST AND SAVINGS BANK

By Harold Eckhart
Vice President

Attest: R. Blackburn
Assistant Secretary

In the presence of
H. O. Palm
Louis Johnston

STATE OF ILLINOIS } ss.
COUNTY OF COOK }

On this 4th day of December, in the year 1945, before me, Edwin O. Schiewe, a Notary Public in and for the State and County aforesaid, personally appeared H. A. Scandrett and T. W. Burtness, to me personally known and known to me to be the President and Secretary, respectively, of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the corporation described in and which executed the foregoing instrument, and known to me to be the identical persons whose names are subscribed to and who executed the foregoing instrument on behalf of said corporation, who, being by me duly sworn, did severally say and acknowledge that they are the President and Secretary, respectively, of said Chicago, Milwaukee, St. Paul and Pacific Railroad Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and was affixed thereto by authority of its Board of Directors and that said instrument was signed, sealed and executed like them in the name and on behalf of said corporation by and authority; and said H. A. Scandrett that T. W. Burtness severally acknowledged same they signed, sealed and delivered said instrument in the tary and on behalf of said corporation as their free and volun rely, act and deed as such President and Secretary, respecti ora- and by authority of the Board of Directors of said corp by tion, and that said instrument was voluntarily executed for said corporation as its free and voluntary act and deed, the uses and purposes therein set forth. id

IN WITNESS WHEREOF, I have hereunto set my hand a affixed my Notarial Seal this 4th day of December, 1945.

Edwin O. Schiewe

(NOTARIAL SEAL)

EDWIN O. SCHIEWE,
Notary Public in and for the
State of Illinois, County of Coo
Residing at Chicago, therein.
My Commission Expires Aug. 29, 1949

STATE OF ILLINOIS } ss.
COUNTY OF COOK }

On this 4th day of December, in the year 1945, before me, H. O. PALM, a Notary Public in and for the State and County aforesaid, personally appeared HAROLD ECKHART and R. BLACKBURN, to me personally known and known to me to be a Vice President and an Assistant Secretary, respectively, of Harris Trust and Savings Bank, the corporation described in and which executed the foregoing instrument, and known to me to be the identical persons whose names are subscribed to and who executed the foregoing instrument on behalf of said corporation, who, being by me duly sworn, did severally say and acknowledge that they are a Vice President and an Assistant Secretary, respectively, of said Harris Trust and Savings Bank, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and was affixed thereto by authority of its Board of Directors and that said instrument was signed, sealed and executed by them in the name and on behalf of said corporation by like authority; and said HAROLD ECKHART and R. BLACKBURN severally acknowledged that they signed, sealed and delivered said instrument in the name and on behalf of said corporation as their free and voluntary act and deed as such Vice President and Assistant Secretary, respectively, and by authority of the Board of Directors of said corporation, and that said instrument was voluntarily executed by said corporation as its free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this 4th day of December, 1945.

H. O. Palm

(NOTARIAL SEAL)

H. O. PALM
Notary Public in and for the
State of Illinois County of Cook, and
residing at Chicago therein
My Commission Expires September 18, 1948

STATE OF ILLINOIS } ss.
COUNTY OF COOK }

H. A. Scandrett, being first duly sworn, deposes and says that he is President of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a corporation organized and existing under the laws of the State of Wisconsin, which executed as mortgagor the Indenture of Mortgage and Deed of Trust to which this affidavit is appended, that the consideration of said mortgage was actual and adequate, that the same was given in good faith for the purposes therein set forth to secure the amount named therein, and without any design to hinder, delay or defraud creditors, and that Harris Trust and Savings Bank, the trustee and mortgagee named in said mortgage, has delivered to said Railroad Company, and said Railroad Company has received, a duplicate copy of said mortgage so executed.

H. A. Scandrett

Subscribed and sworn to before me this 4th day of December, 1945.

Edwin O. Schiewe

(NOTARIAL SEAL)

EDWIN O. SCHIEWE,
Notary Public in and for the
State of Illinois, County of Cook,
Residing at Chicago, therein.
My Commission Expires Aug. 29, 1949

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 5th day of December A. D. 1945 at 4:23 o'clock P. M. and recorded in Vol. 39 of Railroad Mortgages on pages 85-161 incl.
Robert C. Zimmerman
Assistant Secretary of State

STATE OF ILLINOIS,)
COOK COUNTY,) SS.

I MICHAEL J. FLYNN, County Clerk of the County of Cook, DO HEREBY CERTIFY that I am the lawful custodian of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of magistracy, that H. O. PALM whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, was, at the time of taking such proof of acknowledgment, a Notary Public in and for Cook County, duly commissioned, sworn and acting as such and authorized to take acknowledgments and proofs of deeds or conveyances of lands, tenements or hereditaments, in said State of Illinois, and to administer oaths; all of which appears from the records and files in my office; that I am well acquainted with the handwriting of said Notary and verily believe that the signature to the said proof of acknowledgment is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County of Cook at my office in the City of Chicago, in the said County, this 5 day of Dec. 1945.

(COUNTY CLERK SEAL)

MICHAEL J. FLYNN County Clerk

STATE OF ILLINOIS,)
COOK COUNTY,) SS.

I MICHAEL J. FLYNN, County Clerk of the County of Cook, DO HEREBY CERTIFY that I am the lawful custodian of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of magistracy, that EDWIN O. SCHIEWE whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, was, at the time of taking such proof of acknowledgment, a Notary Public in and for Cook County, duly commissioned, sworn and acting as such and authorized to take acknowledgments and proofs of deeds or conveyances of lands, tenements or hereditaments, in said State of Illinois, and to administer oaths; all of which appears from the records and files in my office; that I am well acquainted with the handwriting of said Notary and verily believe that the signature to the said proof of acknowledgment is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County of Cook at my office in the City of Chicago, in the said County, this 5 day of Dec. 1945.

(COUNTY CLERK SEAL)

MICHAEL J. FLYNN County Clerk

STATE OF ILLINOIS,)
COOK COUNTY,) SS.

I MICHAEL J. FLYNN, County Clerk of the County of Cook, DO HEREBY CERTIFY that I am the lawful custodian of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of magistracy, that EDWIN O. SCHIEWE whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, was, at the time of taking such proof of acknowledgment, a Notary Public in and for Cook County, duly commissioned, sworn and acting as such and authorized to take acknowledgments and proofs of deeds or conveyances of lands, tenements or hereditaments, in said State of Illinois, and to administer oaths; all of which appears from the records and files in my office; that I am well acquainted with the handwriting of said Notary and verily believe that the signature to the said proof of acknowledgment is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County of Cook at my office in the City of Chicago, in the said County, this 5 day of Dec. 1945.

(COUNTY CLERK SEAL)

MICHAEL J. FLYNN County Clerk

ASSIGNMENT

of a

CONDITIONAL SALE AGREEMENT

between

PRESSED STEEL CAR COMPANY, INC.

and

GREAT NORTHERN RAILWAY COMPANY

to

CENTRAL HANOVER BANK AND TRUST COMPANY

AGREEMENT, dated as of January 1, 1946, between PRESSED STEEL CAR COMPANY, INC., a corporation of the State of Pennsylvania, hereinafter referred to as the "Manufacturer", party of the first part, and CENTRAL HANOVER BANK AND TRUST COMPANY, a corporation of the State of New York, with its principal place of business at 70 Broadway, New York, N. Y., hereinafter referred to as the "Bank", party of the second part, and GREAT NORTHERN RAILWAY COMPANY, a corporation of the State of Minnesota, hereinafter referred to as the "Railroad", as party of the third part:

WHEREAS, the Manufacturer and the Railroad have entered into a Conditional Sale Agreement, hereinafter called the "Agreement," dated July 19, 1945, covering five hundred (500) 40-foot, 50-ton capacity, high tensile, low carbon, all-steel gondola cars, body and underframe of all welded construction throughout, bearing the Railroad's Nos. 75000 to 75499, both inclusive, and hereinafter sometimes referred to as "equipment"; and

WHEREAS, said Agreement provides for a purchase price of Three Thousand Nine Hundred Fourteen and 56/100 Dollars ($3,914.56) per unit of said equipment, aggregating One Million Nine Hundred Fifty-seven Thousand Two Hundred Eighty Dollars ($1,957,280.00); and

WHEREAS, twenty per cent (20%) of such purchase price has heretofore been paid and the remainder is payable in one hundred twenty (120) equal monthly installments, with interest, excepting only that the final monthly payment of principal shall be such as to extinguish the debt then remaining after application of all previous payments credited thereto, all as therein provided; and

WHEREAS, said equipment has been delivered to, and is now in possession of, the Railroad, title having been retained by the Manufacturer, as provided in said Agreement; and

WHEREAS, the Bank has agreed to purchase the rights of the Manufacturer under said Agreement in and to the said equipment and the payment of the remainder of the purchase price therefor, and accrued interest, as provided in the said Agreement, and the Manufacturer has agreed to assign the same to the Bank;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that in consideration of the sum of Seven Hundred Eight Thousand Three Hundred Fifty Dollars ($708,350.00), plus accrued interest thereon from the date of this assignment to the date of delivery hereof, at the annual rate referred to in paragraph 5 hereof, paid by the Bank to the Manufacturer, at or before the ensealing and delivery hereof, the receipt of which by the Manufacturer from the Bank is hereby acknowledged, and of the mutual covenants herein contained, the parties hereto do hereby covenant and agree as follows, to-wit:

1. The Manufacturer hereby sells, assigns, transfers and sets over unto the Bank, its successors and assigns, all the right, title and interest of the Manufacturer in and to the said equipment, including the right to receive the payments provided for in said Agreement, and the right of assignment as provided by paragraph 3 of said Agreement, and subject to the provisions thereof, together with all the rights and subject to all the obligations in respect thereof set forth in the said Agreement as applying to the Manufacturer (Vendor) thereunder as therein defined without

any recourse, however, against the Manufacturer for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with any of the provisions of, the said Agreement, provided, however, that this assignment shall not subject the Bank to, or transfer or pass, or in any way affect or modify the liability of the Manufacturer, or of any successor or successors to its manufacturing property and business, in respect of its obligations to construct and deliver the equipment, or as to any warranty or indemnity with respect thereto contained in paragraphs 5 and 6 of said Agreement; it being understood and agreed that, notwithstanding this assignment, all said obligations of the Manufacturer to the Railroad in respect of the said equipment shall be and remain enforcible by the Railroad, its successors and assigns, against and only against the Manufacturer, and any successor or successors to all or substantially all of its property and business, as in said Agreement provided. Without hereby limiting the generality of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Bank to sue for, collect, receive and enforce, in its own name, but at the expense and liability and for the sole benefit of the Bank, all sums payable and all action to be taken by the Railroad under said Agreement in respect of the equipment described therein.

The Manufacturer represents and warrants to the Bank, its successors and assigns, that said Agreement was lawfully executed for a valid consideration; that it is a valid and existing contract and, according to its terms, binding upon the parties thereto, and that it will secure an opinion of counsel of the Railroad that said Agreement and this As-

signment have been or will be filed, registered, deposited and recorded in accordance with the provisions of Section 14 of said Agreement.

2. The Manufacturer covenants and agrees with the Bank that the Manufacturer is the lawful owner of the said equipment and rights under said Agreement sold, assigned, transferred and set over, or intended to be sold, assigned, transferred and set over, to the Bank by this Assignment; that the same is free from all liens or encumbrances; that the Manufacturer has good and lawful right to sell the same as aforesaid, and that the Manufacturer will warrant and defend the same against the lawful demands of all persons whomsoever based on claims originating prior to the delivery of the said equipment by the Manufacturer to the Railroad and/or to the Bank; all subject, however, to the provisions of the aforesaid Agreement, and the rights of the Railroad thereunder.

3. The Manufacturer covenants and agrees with the Bank, its successors and assigns, that, in any suit or action brought by the Bank under said Agreement for any installment of the purchase price, or any part thereof, to enforce any provisions of said Agreement, the Manufacturer will save, indemnify and keep harmless the Bank from and against all expense, loss or damage suffered by reason of any defense, set-off or counterclaim of the Railroad arising out of a breach by the Manufacturer, or any successor or successors to its manufacturing property and business, of any of the Manufacturer's obligations respecting said equipment under the terms and conditions of said Agreement, or arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Manufac-

turer or successor or successors; provided, the Manufacturer or such successor is given due notice of such defense, set-off or counterclaim, and reasonable opportunity to defend against the same. The Manufacturer agrees to save, indemnify and keep harmless the Bank from and against any and all royalties, damages, claims, suits, judgments and costs that may arise from the use of any patented article, except with regard to any appliances, devices or materials specified by the Railroad and not manufactured by the Manufacturer.

4. The Manufacturer shall, concurrently with this Agreement, deliver to the Bank a certificate executed by an agent theretofore designated by the Railroad for that purpose, stating that the units of said equipment, specified by numbers in such certificate, have been delivered to and accepted on its behalf by such agent. The Railroad has agreed that the execution of such certificate of acceptance shall be conclusive evidence that the units of said equipment covered thereby conform to specifications and are acceptable to the Railroad in all details. The Manufacturer warrants that there was, at the time of the delivery of each unit of said equipment to the Railroad, plainly, permanently and conspicuously placed and applied to each side a marking indicating the Manufacturer as Owner, and the Railroad warrants that promptly upon the consummation of this Agreement there will be plainly, permanently and conspicuously placed, fastened and maintained upon each side, in place of the aforesaid marking, a metal plate bearing the following words:

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"Central Hanover Bank and Trust Company, Owner, As Assignee of Pressed Steel Car Company, Inc., Manufacturer and Prior Owner."

5. The Bank in consideration of the making of this assignment by the Manufacturer and in consideration of the covenants of the Railroad herein set forth, agrees that the rate of interest upon deferred payments provided for in said Agreement upon all principal amounts due under said Agreement, and unpaid at the date of this assignment and becoming payable from and after such date shall be one and sixty-three hundredths per cent (1.63%) per annum.

6. The Railroad in consideration of the foregoing covenants of the Bank has delivered to the Bank at the time of the execution of this instrument, its promissory note in the form hereunto attached and marked Exhibit X in favor of the Bank, to further evidence, but not in payment of, the indebtedness due from the Railroad under said Agreement and in the full presently remaining principal amount of said indebtedness, payable at the times and in the amount provided in said Agreement for the payment of said indebtedness, with interest at the annual rate as above provided for in paragraph 5, and has paid to the Manufacturer all interest accrued under the terms of said Agreement up to the date of this assignment. The Bank agrees that all partial payments of the purchase price indebtedness shall correspondingly reduce said indebtedness as evidenced by said Agreement and shall likewise be endorsed upon said note.

7. The Bank hereby accepts the aforementioned note as further evidence, but not in payment, of the Railroad's obligation to pay the presently unpaid purchase price of the

equipment so conditionally sold. The Bank agrees that it will not assign or transfer its interest in said Agreement, or in said equipment, without transferring the said promissory note to the same party or parties, and that it will not endorse, transfer nor assign said promissory note without also assigning its interest in said Agreement, including its title to said equipment, to the same party or parties. The Bank further agrees not to assign its interest in said Agreement or the title to said equipment, unless its assignee shall by the terms of the assignment or otherwise assume and become bound by such of the provisions of said Agreement as an assignee is required to assume and become bound by under the terms of Section 3 of said Agreement. The Bank further agrees that it will not endorse or transfer said note or assign its interest in said Agreement or the title to the equipment without requiring of the endorsee, assignee or transferee an agreement similar to that made by the Bank in this paragraph.

8. The Railroad and Bank expressly acknowledge and agree that said note has not been executed, delivered nor accepted in payment of the indebtedness or obligation of the Railroad for the payment of the purchase price of said equipment, but solely as further evidence of said indebtedness. The Railroad and Bank further acknowledge, covenant and agree that neither the execution, delivery nor acceptance of said note shall in any way impair or otherwise affect the title of the Bank in and to said equipment. Said title (subject only to the rights of the Railroad to obtain a transfer thereof in the event of the full payment of the purchase price and performance of other obligations, all as provided in said Agreement) is hereby expressly confirmed and acknowledged.

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9. The Railroad hereby represents and warrants that the issuance of said note has been authorized and approved by the Interstate Commerce Commission by order dated August 29, 1945, and by the Executive Committee or the Board of Directors of the Railroad.

10. All rights and obligations hereunder shall be governed by the laws of the State of New York.

11. This Assignment may be simultaneously executed in two (2) or more counterparts; each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced for all purposes by any such original counterpart. The Bank agrees to deliver one of such counterparts, or a certified copy thereof to the Railroad.

IN WITNESS WHEREOF, The parties hereto, pursuant to due corporate authority, have caused this Assignment to be executed in their respective corporate names by their respective officers thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, as of the day and year first above written.

PRESSED STEEL CAR COMPANY, INC.,

By .....,

Vice President.

ATTEST: .....

Assistant Secretary.

Signed, sealed and delivered as to Pressed Steel Car Company, Inc., in the presence of:

.....

.....

Witnesses.

CENTRAL HANOVER BANK AND TRUST COMPANY,

By .....

Vice President.

ATTEST: .....

Assistant Secretary.

Signed, sealed and delivered as to Central Hanover Bank and Trust Company in the presence of:

.....

.....

Witnesses.

GREAT NORTHERN RAILWAY COMPANY,

By .....

Vice President.

ATTEST: .....

Secretary.

Signed, sealed and delivered as to Great Northern Railway Company in the presence of:

.....

.....

Witnesses.

STATE OF PENNSYLVANIA }
COUNTY OF ALLEGHENY } ss.

I, ..., a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this .... day of January, A. D. 1946, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such as to Pressed Steel Car Company, Inc., to the within and foregoing instrument, H. J. Gearhart and B. W. Harvey, each to me personally known and known to me to be, respectively, a Vice President and an Assistant Secretary of Pressed Steel Car Company, Inc., one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed, as such, and the said H. J. Gearhart and B. W. Harvey, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said H. J. Gearhart resides in Pittsburgh, State of Pennsylvania, and that the said B. W. Harvey resides in Pittsburgh, State of Pennsylvania; that said H. J. Gearhart is a Vice President and said B. W. Harvey is an Assistant Secretary of Pressed Steel Car Company, Inc., one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Vice President and Assistant Secretary, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Secretary in behalf of said corporation by like authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of Allegheny, State of Pennsylvania, this the day and year in this my certificate first above written.

.....

Notary Public.

My commission expires .....

STATE OF NEW YORK, }
COUNTY OF NEW YORK. } ss.

EDWARD F. RYAN

I, ..., a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 16 day of January, A. D. 1946, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such as to Central Hanover Bank and Trust Company to the within and foregoing instrument. M. B. Hopkins and E. S. Brown, each to me personally known and known to me to be respectively Vice President and Assistant Secretary of the Central Hanover Bank and Trust Company, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said M. B. Hopkins and E. S. Brown, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said M. B. Hopkins resides at 53 Park Place in the City of Montclair, State of New Jersey, and that the said E. S. Brown resides at Scarsdale in the

City of Montclair State of New York; that said M. B. Hopkins is Vice President and said E. S. Brown is Assistant Secretary of the Central Hanover Bank and Trust Company, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Vice President and Assistant Secretary know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Trustees of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of New York, State of New York, this the day and year in this my certificate first above written.

E. Brown

EDWARD F. RYAN
Notary Public, Nassau Co. No. 2056
Cert. filed in N. Y. Co. No. 561, Reg. No. 32..R-7
Term Expires March 30, 1947

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STATE OF MINNESOTA, }
COUNTY OF RAMSEY, } ss.

I, Howard V. Rhodin, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 15 day of January, A. D. 1946, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such as to Great Northern Railway Company to the within and foregoing instrument, Edwin C. Matthias and F. L. Paetzold, each to me personally known and known to me to be respectively Vice President and Secretary of the Great Northern Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said Edwin C. Matthias and F. L. Paetzold, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said Edwin C. Matthias resides in the City of St. Paul, State of Minnesota, and that the said F. L. Paetzold resides in the City of St. Paul, State of Minnesota; that said Edwin C. Matthias is Vice President and said F. L. Paetzold is Secretary of the Great Northern Railway Company, one of the corporations described in and which

executed the within and foregoing instrument in writing; that they, the said Vice President and Secretary know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of Ramsey, State of Minnesota, this the day and year in this my certificate first above written.

Howard V. Rhodin

HOWARD V. RHODIN,
Notary Public, Ramsey County, Minn.
My Commission Expires May 31, 19..

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EXHIBIT X.

St. Paul, Minn., January 1, 1946.

FOR VALUE RECEIVED, GREAT NORTHERN RAILWAY COMPANY (hereinafter called the "Railroad"), promises to pay to CENTRAL HANOVER BANK AND TRUST COMPANY, at such bank or banks as said Payee, or its successors or assigns, may from time to time designate, in such 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, the principal sum of One Million Five Hundred Sixty-five Thousand Eight Hundred Twenty-four Dollars ($1,565,824.00), together with interest upon the balance thereof remaining unpaid from time to time at the rate of one and sixty-three hundredths per cent (1.63%) per annum, said principal to be payable at the following times, to-wit:

The sum of Thirteen Thousand Forty-eight and 54/100 Dollars ($13,048.54) on the 1st day of February, 1946, and on the 1st day of each calendar month thereafter until the principal sum hereof shall have been paid, excepting only that the final monthly payment of principal shall be such as to extinguish the debt then remaining after application of all previous payments credited thereto, the interest then accrued and unpaid at said rate to be payable upon each date upon which installments of principal shall be payable as aforesaid.

This note is given to further evidence, but not in payment of, an indebtedness of the Railroad to said CENTRAL HANOVER BANK AND TRUST COMPANY for the unpaid portion of the purchase price of five hundred

(500) gondola cars purchased by the Railroad from Pressed Steel Car Company, Inc., under a conditional sale agreement dated July 19, 1945, and assigned to the Payee herein, and all payments of principal and interest upon this note shall be applied pro tanto in discharge of said indebtedness.

Any payment to be made under the provisions of this note may be made at the option of the Railroad in advance of maturity on any payment date and in inverse order of maturity.

GREAT NORTHERN RAILWAY COMPANY,

By .....,
Vice President.

Attest: .....
Secretary.

State of Wisconsin } ss.
DEPARTMENT OF STATE

Received this 25th day of January A. D. 1946 at 3:00 o'clock P. M. and recorded in Vol. 39 of Railroad Mortgages on page 163 ET SEQ.

Robt. C. [illegible]
Assistant Secretary of State

Fee $11.75

Supplemental Indenture

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

TO

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK

AND

FRAZIER L. FORD
TRUSTEES

Dated as of August 1, 1945.

Supplemental to First and Refunding Mortgage Dated February 1, 1921

Pandick Press, Inc., 22 Thames St., New York 6, N. Y., U. S. A

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THIS SUPPLEMENTAL INDENTURE, dated as of August 1, 1945, between CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, a corporation created and existing under the laws of the State of Illinois, hereinafter called the "Railroad Company", party of the first part, and THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, a corporation created and existing under the laws of the United States, hereinafter called the "Corporate Trustee" and FRAZIER L. FORD, a citizen of the State of Missouri, hereinafter called the "Individual Trustee", the Corporate Trustee and the Individual Trustee, collectively, being hereinafter called the "Trustees", parties of the second part.

WHEREAS, a certain First and Refunding Mortgage dated February 1, 1921, hereinafter called the "Mortgage", has been heretofore executed and acknowledged by the Railroad Company and the Trustees; and

WHEREAS, the Railroad Company and the Trustees entered into a Supplemental Indenture to the Mortgage, dated as of August 1, 1944, evidencing the terms and provisions, including redemption and sinking fund provisions, of the series of bonds issued under the Mortgage known as the Series of 1974, $40,000,000 principal amount of which were issued; and

WHEREAS, the Railroad Company has by proper corporate action authorized the issuance and sale of an additional series of bonds under said Mortgage to be known as its First and Refunding Mortgage 3⅛% Bonds, Series of 1985, due August 1, 1985, hereinafter referred to as the "Series of 1985 Bonds" in the principal amount of $65,000,000; and

WHEREAS, Article Eleven of the Mortgage provides that the Railroad Company, when authorized by resolution of its Board of Directors, and the Trustees, from time to time and at any time, may enter into

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an indenture supplemental thereto and which thereafter shall form a part thereof and be binding upon the holders of all bonds then outstanding or which may thereafter be outstanding thereunder, for purposes necessary or desirable and not inconsistent with the Mortgage; and

WHEREAS, the Series of 1985 Bonds are to be entitled to the benefits of a sinking fund as hereinafter provided; and

WHEREAS, the Railroad Company desires, by this Supplemental Indenture, to evidence the terms and provisions, including redemption and sinking fund provisions, as determined by its Board of Directors, of the Series of 1985 Bonds, all as more fully herein set forth; and

WHEREAS, all acts and things prescribed by law and by the charter and the by-laws of the Railroad Company to authorize the execution and delivery of these presents have been duly performed and complied with; and

WHEREAS, the forms of the Series of 1985 Bonds in coupon form, of the coupons to be attached thereto, of the Series of 1985 Bonds in registered form and of the Trustee's certificate to be endorsed on the Series of 1985 Bonds are to be severally and respectively substantially as follows:

[FORM OF COUPON BOND]

No..... $1,000

UNITED STATES OF AMERICA

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

3⅛ PER CENT FIRST AND REFUNDING MORTGAGE COUPON BOND
SERIES OF 1985

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY (hereinafter called the "Railroad Company"), a corporation of the State of Illinois,

for value received, hereby promises to pay to bearer, or, if this bond be registered, then to the registered holder hereof, on the first day of August, 1985, at the office or agency of the Railroad Company in the Borough of Manhattan, City of New York, State of New York, the sum of One Thousand 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, in like coin or currency, interest thereon from August 1, 1945, at the rate of 3⅛ per cent per annum, such interest to be payable at such office or agency, semi-annually on the first day of February and on the first day of August in each year until the payment of said principal sum, but only upon presentation and surrender of the coupons therefor hereto attached as they severally mature. This Series of 1985 Bond is one of the First and Refunding Mortgage Bonds (coupon and registered) of the Railroad Company, issued and to be issued in one or more series under and pursuant to, and all equally secured by, an indenture of mortgage or deed of trust dated February 1, 1921, duly executed by the Railroad Company to The First National Bank of the City of New York, a corporation of the United States of America, and Frazier L. Ford, as Trustees, to which indenture and any and all supplements thereto, reference is hereby made for a description of the railroads, properties and franchises mortgaged or pledged to said Trustees, or their successors, the nature and extent of the security, and the rights of the holders of said bonds and of the Trustees in respect of such security. At any time the authorized issue of bonds under said indenture is limited to an amount which, together with all then outstanding prior debt of the Railroad Company or of a successor corporation (as such prior debt is defined in the indenture aforesaid) after deducting therefrom the bonds then reserved under the provisions of said indenture to retire prior debt before, at or after maturity, shall be equal to three times the par value of the then outstanding fully paid capital stock of the Railroad Company or of a successor corporation. In case of certain defaults specified in said indenture, the principal of all such bonds may be declared and may become due and payable in the manner and with the effect provided in said indenture. As provided in the Supplemental Indenture dated as of August 1, 1945, the Railroad Company covenants that, as and for a sinking fund, it will pay to the Corporate Trustee, on or before the first day of May in each calendar year from 1946 to 1984,

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inclusive, $325,000 together with an additional amount equivalent to 10% of the amount paid by the Railroad Company as dividends on its capital stock in the calendar year immediately preceding such year, to be used by said Trustee for the purchase of Series of 1985 Bonds, or for the redemption thereof at the applicable sinking fund redemption prices hereinafter set forth. At its option, the Railroad Company, in lieu of making all or part of any sinking fund payment in cash, may surrender to the Corporate Trustee, and said Trustee will accept at the amount paid therefor by the Railroad Company, but not in excess of the then applicable sinking fund redemption price, Series of 1985 Bonds acquired by the Railroad Company, either canceled or uncanceled (except bonds retired by operation of the sinking fund). Series of 1985 Bonds to be redeemed will be determined by the Corporate Trustee by lot, in such manner as said Trustee deems proper. When such bonds have been redeemed and paid off by said Trustee, they shall be cancelled by the Trustee and returned to the Railroad Company. The Railroad Company will provide the Corporate Trustee, in addition to the amounts or bonds required for the sinking fund, with the amounts necessary to pay any accrued interest and brokerage commissions and the Trustee's charges and expenses.

As provided in said indenture, said Supplemental Indenture and in the resolution creating this series, upon notice published in a newspaper in the Borough of Manhattan, City and State of New York, at least once in each week for nine successive weeks next preceding said first day of February or August, first publication to be not less than sixty (60) days before the redemption date, all or any part of the Series of 1985 Bonds may be redeemed at the option of the Railroad Company on any interest date at the following redemption prices (expressed in percentages of the principal amount), together with accrued interest to the date of redemption:

When redeemed for purposes other than the sinking fund, the redemption prices shall be:

From	To	%	From	To	%
Aug. 1, 1945	July 31, 1949	105½	Aug. 1, 1969	July 31, 1973	102¼
Aug. 1, 1949	July 31, 1953	105	Aug. 1, 1973	July 31, 1976	101⅝
Aug. 1, 1953	July 31, 1957	104½	Aug. 1, 1976	July 31, 1979	101⅓
Aug. 1, 1957	July 31, 1961	103⅞	Aug. 1, 1979	July 31, 1982	100½
Aug. 1, 1961	July 31, 1965	103⅜	Aug. 1, 1982	Maturity	100
Aug. 1, 1965	July 31, 1969	102¾			

When redeemed through operation of the sinking fund, the redemption prices shall be:

From	To	%	From	To	%
Aug. 1, 1945	July 31, 1949	102½	Aug. 1, 1969	July 31, 1973	101
Aug. 1, 1949	July 31, 1953	102¼	Aug. 1, 1973	July 31, 1976	100¾
Aug. 1, 1953	July 31, 1957	102	Aug. 1, 1976	July 31, 1979	100½
Aug. 1, 1957	July 31, 1961	101¾	Aug. 1, 1979	July 31, 1982	100¼
Aug. 1, 1961	July 31, 1965	101½	Aug. 1, 1982	Maturity	100
Aug. 1, 1965	July 31, 1969	101¼			

Series of 1985 Bonds with coupons are issuable in the denomination of $1,000. Series of 1985 registered bonds without coupons are issuable in denominations of $1,000, $5,000, $10,000, $50,000, $100,000, and in such other denominations as the Board of Directors or Executive Committee of the Railroad Company may determine. Unless registered as herein provided, this bond shall pass by delivery. Any coupon bond may be registered as to principal in the owner's name at the office or agency of the Railroad Company in the Borough of Manhattan, City of New York, such registry being noted on the bond, after which no transfer shall be valid unless made by the registered owner, in person or by attorney, and similarly noted on the bond; but the same may be discharged from registry by like transfer to bearer noted on the bond; whereupon transferability by delivery shall be restored. Such registration, however, shall not affect the negotiability of the coupons for the interest on the bond, and such coupons shall continue to be payable to bearer and to be transferable by delivery merely, and payment thereof shall fully discharge the Railroad Company in respect of the interest therein mentioned, whether or not the

bond be registered. In the manner prescribed in said indenture and upon payment of the charges therein provided, the holder of any coupon bond or bonds for $1,000, at his option, may surrender for cancellation such bond or bonds, with all unmatured coupons, in exchange for a registered bond or bonds without coupons of the same series for the same aggregate principal amount. Any such registered bond, in like manner, and upon payment of the charges provided in said indenture, may in turn be exchanged for a coupon bond or coupon bonds of the same series for the same aggregate principal amount and bearing all unmatured coupons. No recourse shall be had for the payment of the principal of or the interest upon this bond, or for any claim based hereon, or otherwise in respect hereof, or of said indenture under which this bond is issued, against any incorporator, stockholder, officer or director, past, present or future, of the Railroad Company or of any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration of the issue hereof, expressly released as provided in said indenture. This bond shall not be entitled to any security or benefit under said indenture, and shall not become valid or obligatory for any purpose, until it has been authenticated by the execution of the certificate, hereon endorsed, by The First National Bank of the City of New York, as Corporate Trustee, or its successor in trust under said indenture.

IN WITNESS WHEREOF the Railroad Company has caused this bond to be signed by its President or a Vice President, and its corporate seal to be hereunto affixed and attested by its Secretary or an Assistant Secretary, and coupons for said interest, bearing the engraved facsimile signature of its Treasurer, to be attached hereto.

Dated the 1st day of August, 1945.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY,

By.....
Vice President.

ATTEST:

.....
Assistant Secretary.

(SEAL)

[FORM OF INTEREST COUPON]

No..... $.....

On the first day of ....., CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY will pay to bearer, at its office or agency in the Borough of Manhattan, City of New York, ... and ..... 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, being six months' interest then due on its First and Refunding Mortgage 3⅛% Bond, Series of 1985, No. ....., unless said bond shall have been called for previous redemption and payment duly provided for.

.....
Treasurer.

[FORM OF REGISTERED BOND]

No..... $.....

UNITED STATES OF AMERICA

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

3⅛ PER CENT. FIRST AND REFUNDING MORTGAGE REGISTERED BOND

SERIES OF 1985

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY (hereinafter called the "Railroad Company"), a corporation of the State of Illinois, for value received, hereby promises to pay to .... or registered assigns, on the first day of August, 1985, at the office or agency of the Railroad Company in the Borough of Manhattan, City of New York, State of New York, the 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 payment of public and private debts, and to

pay interest thereon at the rate of 3⅛ per cent. per annum, from the first day of February or August, as the case may be, to which interest has been paid last preceding the date hereof, unless such date is a February 1 or August 1 to which interest has been paid, in which case from such date, or unless such date is prior to February 1, 1946, in which case from August 1, 1945, such interest to be payable to the registered holder hereof at such office or agency, in like coin or currency, semi-annually on the first day of February and on the first day of August in each year until the payment of said principal sum. This Series of 1985 bond is one of the First and Refunding Mortgage Bonds (coupon and registered) of the Railroad Company, issued and to be issued in one or more series under and pursuant to, and all equally secured by, an indenture of mortgage or deed of trust dated February 1, 1921, duly executed by the Railroad Company to The First National Bank of the City of New York, a corporation of the United States of America, and Frazier L. Ford, as Trustees, to which indenture and any and all supplements thereto, reference is hereby made for a description of the railroads, properties and franchises mortgaged or pledged to said Trustees, or their successors, the nature and extent of the security, and the rights of the holders of said bonds and of the Trustees in respect of such security. At any time the authorized issue of bonds under said indenture is limited to an amount which, together with all then outstanding prior debt of the Railroad Company or of a successor corporation (as such prior debt is defined in the indenture aforesaid) after deducting therefrom the bonds then reserved under the provisions of said indenture to retire prior debt before, at or after maturity, shall be equal to three times the par value of the then outstanding fully paid capital stock of the Railroad Company or of a successor corporation. In case of certain defaults specified in said indenture, the principal of all such bonds may be declared and may become due and payable in the manner and with the effect provided in said indenture. As provided in the Supplemental Indenture dated as of August 1, 1945, the Railroad Company covenants that, as and for a sinking fund, it will pay to the Corporate Trustee, on or before the first day of May in each calendar year from 1946 to 1984, inclusive, $325,000 together with an additional amount equivalent to 10% of the amount paid by the Railroad Company as dividends on its capital stock in the calendar year immediately preceding such year, to be used by said Trustee for

the purchase of Series of 1985 Bonds, or for the redemption thereof at the applicable sinking fund redemption prices hereinafter set forth. At its option, the Railroad Company, in lieu of making all or part of any sinking fund payment in cash, may surrender to the Corporate Trustee, and said Trustee will accept at the amount paid therefor by the Railroad Company, but not in excess of the then applicable sinking fund redemption price, Series of 1985 Bonds acquired by the Railroad Company, either canceled or uncanceled (except bonds retired by operation of the sinking fund). Series of 1985 Bonds to be redeemed will be determined by the Corporate Trustee by lot, in such manner as said Trustee deems proper. When such bonds have been redeemed and paid off by said Trustee, they shall be canceled by the Trustee and returned to the Railroad Company. The Railroad Company will provide the Corporate Trustee, in addition to the amounts or bonds required for the sinking fund, with the amounts necessary to pay any accrued interest and brokerage commissions and the Trustee's charges and expenses.

As provided in said indenture, said Supplemental Indenture, and in the resolution creating this series, upon notice published in a newspaper in the Borough of Manhattan, City and State of New York, at least once in each week for nine successive weeks next preceding said first day of February or August, first publication to be not less than sixty (60) days before the redemption date, all or any part of the Series of 1985 Bonds may be redeemed at the option of the Railroad Company on any interest date at the following redemption prices (expressed in percentages of the principal amount), together with accrued interest to the date of redemption:

When redeemed for purposes other than the sinking fund, the redemption prices shall be:

From	To	%	From	To	%
Aug. 1, 1945	July 31, 1949	105½	Aug. 1, 1969	July 31, 1973	102¼
Aug. 1, 1949	July 31, 1953	105	Aug. 1, 1973	July 31, 1976	101⅝
Aug. 1, 1953	July 31, 1957	104½	Aug. 1, 1976	July 31, 1979	101¼
Aug. 1, 1957	July 31, 1961	103⅞	Aug. 1, 1979	July 31, 1982	100½
Aug. 1, 1961	July 31, 1965	103⅜	Aug. 1, 1982	Maturity	100
Aug. 1, 1965	July 31, 1969	102¾			

When redeemed through operation of the sinking fund, the redemption prices shall be:

From	To	%	From	To	%
Aug. 1, 1945	July 31, 1949	102½	Aug. 1, 1969	July 31, 1973	101
Aug. 1, 1949	July 31, 1953	102¼	Aug. 1, 1973	July 31, 1976	100¾
Aug. 1, 1953	July 31, 1957	102	Aug. 1, 1976	July 31, 1979	100½
Aug. 1, 1957	July 31, 1961	101¾	Aug. 1, 1979	July 31, 1982	100¼
Aug. 1, 1961	July 31, 1965	101½	Aug. 1, 1982	Maturity	100
Aug. 1, 1965	July 31, 1969	101¼			

Series of 1985 Bonds with coupons are issuable in the denomination of $1,000. Series of 1985 registered bonds without coupons are issuable in denominations of $1,000, $5,000, $10,000, $50,000, $100,000, and in such other denominations as the Board of Directors or Executive Committee of the Railroad Company may determine. This bond is transferable only in the manner prescribed in said indenture at the office or agency of the Railroad Company in the Borough of Manhattan, City of New York, upon surrender and cancellation of this bond; and upon any such transfer a new registered bond without coupons of the same series will be issued to the transferee, in exchange therefor. This bond also, in the manner prescribed in said indenture, is exchangeable for coupon bond or bonds of the same series, for the same aggregate principal amount and bearing all unmatured coupons. Any such coupon bond or bonds bearing all unmatured coupons, in like manner may in turn be exchanged for registered bond or bonds without coupons of the same series for the same aggregate principal amount. Registered bonds, without coupons, of this series, of one denomination, are exchangeable for a like principal amount of registered bonds, without coupons, of the same series, of other authorized denominations. For such transfer or exchange, a charge may be made as provided in said indenture. No recourse shall be had for the payment of the principal of or the interest upon this bond, or for any claim based hereon, or otherwise in respect hereof, or of said indenture under which this bond is issued, against any incorporator, stockholder, officer or director, past, present or future, of the Railroad Company or of any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the con-

sideration of the issue hereof, expressly released as provided in said indenture. This bond shall not be entitled to any security or benefit under said indenture, and shall not become valid or obligatory for any purpose, until it has been authenticated by the execution of the certificate, hereon endorsed, by The First National Bank of the City of New York, as Corporate Trustee, or its successor in trust under said indenture.

IN WITNESS WHEREOF the Railroad Company has caused this bond to be signed by its President or a Vice President, and its corporate seal to be hereunto affixed and attested by its Secretary or an Assistant Secretary.

Dated the ..... day of ....., 19.....

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY,

By.....
Vice President.

ATTEST:

.....
Assistant Secretary.

(SEAL)

[FORM OF CORPORATE TRUSTEE'S CERTIFICATE]

This bond is one of the issue of bonds, of the series designated therein, described in the within-mentioned indenture.

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,
Corporate Trustee,

By.....
Authorized Officer.

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NOW, THEREFORE, this Supplemental Indenture WITNESSETH:

That, in consideration of the premises and of the sum of Ten Dollars ($10) lawful money of the United States of America to the Railroad Company duly paid by the Corporate Trustee at or before the ensealing and delivery of this Supplemental Indenture, and other good and valuable consideration, the receipt whereof is hereby acknowledged, the Railroad Company has executed and delivered this Supplemental Indenture and covenants and agrees with the Trustees and with the respective holders from time to time of the Bonds and coupons issued and to be issued under said Mortgage as follows:

ARTICLE ONE.

SECTION 1. The Series of 1985 Bonds shall be issued and authenticated under and in accordance with the provisions of the Mortgage in an aggregate principal amount at any one time outstanding of not to exceed $65,000,000 except Series of 1985 Bonds issued in lieu of and in substitution for Series of 1985 Bonds destroyed or lost or stolen as provided in Section 4 of Article Two of the Mortgage, shall be dated August 1, 1945, shall mature August 1, 1985, and shall bear interest at the rate of 3⅛% per annum, payable February 1 and August 1 in each year until the principal sum is paid. The Series of 1985 Bonds shall be issuable in coupon form, registerable as to principal, in the denomination of $1,000, and in fully registered form in denominations of $1,000, $5,000, $10,000, $50,000, $100,000 and such other denominations as the Board of Directors or Executive Committee of the Railroad Company may from time to time determine. The Series of 1985 Bonds in fully registered form shall, as provided in the Mortgage, be dated the date of issue and will bear interest from the first day of February or the first day of August, as the case may be, to which interest has been paid last preceding the date thereof, unless such date is a February 1 or August 1 to which interest has been paid, in which case they

shall bear interest from such date, or unless such date is prior to February 1, 1946 in which case they shall bear interest from August 1, 1945.

SECTION 2. The Series of 1985 Bonds shall be redeemable at the option of the Railroad Company, as a whole or in part on any interest payment date or dates prior to maturity, upon payment of the following percentages of the principal amount thereof, all in the manner and with the effect provided in Article Four of the Mortgage:

From	To	%	From	To	%
Aug. 1, 1945	July 31, 1949	105½	Aug. 1, 1969	July 31, 1973	102¼
Aug. 1, 1949	July 31, 1953	105	Aug. 1, 1973	July 31, 1976	101⅝
Aug. 1, 1953	July 31, 1957	104½	Aug. 1, 1976	July 31, 1979	101⅛
Aug. 1, 1957	July 31, 1961	103⅞	Aug. 1, 1979	July 31, 1982	100½
Aug. 1, 1961	July 31, 1965	103⅜	Aug. 1, 1982	Maturity	100
Aug. 1, 1965	July 31, 1969	102¾			

In each case accrued interest on the principal amount to the date designated for redemption shall be paid in addition to the above redemption prices.

The Series of 1985 Bonds may also be redeemed in part from time to time through the operation of the Series of 1985 Sinking Fund provided for in Section 3 of this Article, at the sinking fund redemption prices and in the manner in such Section set forth.

If prior to the date of redemption designated in any notice of redemption, the Railroad Company shall deposit with the Corporate Trustee funds sufficient to pay the applicable redemption price of all Bonds so called for redemption in such notice, together with accrued interest to the date designated for redemption, and either (a) the giving of notice of such redemption in the manner therefor provided in the Mortgage shall have been completed or (b) the Railroad Company shall have irrevocably authorized the Corporate Trustee to give such notice of redemption, then, and in either such event, the Series of 1985

Bonds so called for redemption shall, on and after the date of such deposit, no longer be deemed to be outstanding and shall no longer be entitled to any right or benefit under the Mortgage or any supplemental indenture thereto, except the right to receive the redemption price, together with accrued interest to the date designated for redemption.

SECTION 3. The Railroad Company agrees with the Trustees that so long as any Series of 1985 Bonds are outstanding, it will pay to the Corporate Trustee on or before the first day of May in each year, beginning May 1, 1946 and to and including May 1, 1984, $325,000 together with a sum of money equal to ten per cent (10%) of the amount paid by the Railroad Company as dividends on its capital stock in the calendar year immediately preceding such year. On or before the first day of May in each year, 1946 to 1984, inclusive, the Railroad Company shall furnish its certificate to the Corporate Trustee, stating the total amount of dividends paid on the capital stock of the Railroad Company during the preceding calendar year, and signed by the President, Vice President, Treasurer or Assistant Treasurer of the Railroad Company. In lieu of all or part of any sinking fund payment, the Railroad Company may surrender to the Corporate Trustee, and the Corporate Trustee shall accept, Series of 1985 Bonds acquired by the Railroad Company, at values equal to the cost thereof to the Railroad Company or the then applicable sinking fund redemption price, whichever is less. Such cost shall be exclusive of brokerage and accrued interest, and shall be shown by a certificate signed by the President, Vice President, Treasurer or Assistant Treasurer of the Railroad Company. The Corporate Trustee shall be protected in relying on any such certificate as to cost or dividends paid, and shall be under no duty to make any verification of or investigation or inquiry as to any part thereof.

Series of 1985 Bonds shall be redeemable through the operation of the Series of 1985 Sinking Fund at the following percentages of the principal amount thereof, all in the manner and with the effect provided in Article Four of the Mortgage:

From	To	%	From	To	%
Aug. 1, 1945	July 31, 1949	102½	Aug. 1, 1969	July 31, 1973	101
Aug. 1, 1949	July 31, 1953	102¼	Aug. 1, 1973	July 31, 1976	100¾
Aug. 1, 1953	July 31, 1957	102	Aug. 1, 1976	July 31, 1979	100½
Aug. 1, 1957	July 31, 1961	101¾	Aug. 1, 1979	July 31, 1982	100¼
Aug. 1, 1961	July 31, 1965	101½	Aug. 1, 1982	Maturity	100
Aug. 1, 1965	July 31, 1969	101¼			

In each case accrued interest on the principal amount to the date designated for redemption shall be paid in addition to the above sinking fund redemption prices.

The sinking fund payment so made on any such May 1, subject to credits and plus any balances added thereto as hereinafter provided, is hereinafter referred to as a "Series of 1985 Sinking Fund installment".

At any time after the receipt of any Series of 1985 Sinking Fund installment and until May 15 in each year, the Corporate Trustee, in such manner and at such time or times and in such amounts as it may deem advisable in its discretion, or in such manner and at such time or times and in such amounts as may be directed by the Railroad Company, shall apply any moneys then held by it in the Series of 1985 Sinking Fund to the purchase for the Series of 1985 Sinking Fund of Series of 1985 Bonds, including all unmatured coupons and interest obligations thereto appertaining, at prices (exclusive of brokerage commission and accrued interest) not exceeding the sinking fund redemption price for the Series of 1985 Bonds prevailing on the next ensuing August 1, if available at or below such price. The Railroad Company covenants to reimburse the Series of 1985 Sinking Fund forthwith, on the request of the Corporate Trustee, for the amount of any brokerage commission and accrued interest paid for such purposes out of the Series of 1985 Sinking Fund.

If upon May 15 in any year the Trustee shall have on hand in the Series of 1985 Sinking Fund $50,000 or more, it shall thereupon select or cause to be selected by lot and called for redemption for account

of the Series of 1985 Sinking Fund an aggregate principal amount of Series of 1985 Bonds which will most nearly exhaust the amount on hand, and the Corporate Trustee shall forthwith apply the same, together with the amount in respect of accrued interest paid to the Trustee pursuant to the next succeeding sentence, to the redemption of the Series of 1985 Bonds so called for redemption at the sinking fund redemption price prevailing on the next ensuing August 1. The Railroad Company agrees to pay to the Trustee on or before the May 15 prior to the date designated for such redemption accrued interest to such designated redemption date, it being the intention that accrued interest shall not be charged against sinking fund moneys.

Notice of redemption shall be given by the Corporate Trustee in substantially the same manner as provided in Section 1 of Article Four of the Mortgage for the giving of notice of redemption by the Railroad Company, provided that in addition to the matters set forth in the notice of redemption referred to in said Section 1 of Article Four of the Mortgage, such notice of redemption shall state that the Series of 1985 Bonds so called for redemption are being redeemed through the operation of the Series of 1985 Sinking Fund.

In the event that there shall remain any balance of Series of 1985 Sinking Fund moneys after the application of so much thereof as is required for such redemption as above provided, or without such application, if such balance shall be less than $50,000, such balance shall be retained by the Corporate Trustee and added to the next succeeding Series of 1985 Sinking Fund installment; *provided* that any balance of the Series of 1985 Sinking Fund remaining after all of Series of 1985 Bonds have been retired or called for redemption pursuant to Section 2 of this Article One and Article Four of the Mortgage shall be returned to the Railroad Company.

All Series of 1985 Bonds purchased through the operation of the Series of 1985 Sinking Fund and all Series of 1985 Bonds delivered by the Railroad Company to the Corporate Trustee for the account of the Series of 1985 Sinking Fund, together with all unmatured

coupons thereto appertaining, shall be cancelled by the Corporate Trustee if not previously cancelled by the Railroad Company and all Series of 1985 Bonds redeemed through the operation of the Sinking Fund shall be cancelled by the Corporate Trustee, and no Bonds of the Railroad Company shall be issued in lieu of any thereof so long as any of the Series of 1985 Bonds are outstanding.

The Railroad Company covenants to pay the compensation and expenses of the Corporate Trustee in administering the Series of 1985 Sinking Fund as provided herein, including the cost of advertisement of redemption notices and other expenses.

Default in the payment of any Series of 1985 Sinking Fund installment as herein provided which shall continue for thirty days is hereby made an additional event of default under Section 2 of Article Seven of the Mortgage.

SECTION 4. Any moneys which at any time shall be deposited by the Railroad Company or on its behalf with the Corporate Trustee or any other depositary for the purpose of paying any of the Series of 1985 Bonds which have become due and payable, whether at the maturity thereof or upon call for redemption or otherwise, or for the purpose of paying any coupons or claims for interest appertaining to any of the Series of 1985 Bonds, shall be and hereby are assigned, transferred and set over to the Corporate Trustee or such depositary, as the case may be, to be held in trust for the respective holders of the Series of 1985 Bonds or coupons or claims for interest appertaining thereto, for the purpose of paying which said moneys shall have been deposited, subject to the provisions of the Mortgage, *provided, however*, that the Trustee shall reimburse the Railroad Company, from time to time, out of the funds paid to the Trustee for the purpose of paying interest, for all or any part of any accrued interest paid by the Railroad Company at its office or agency on the Bonds which have so become due and payable.

ARTICLE TWO.

So long as any of the Series of 1985 Bonds are outstanding with the public or until adequate provision has been made for payment of such bonds, the Railroad Company covenants as follows:

(1) The Railroad Company will not request authentication and delivery of any additional bonds under Section 5 of Article Three of the Mortgage or the authentication and delivery of any additional bonds or payment of any deposited cash under Paragraphs I, II or VI of Section 6 of Article Three of the Mortgage, to pay for, or in reimbursement of, expenditures made prior to January 1, 1945 for construction or acquisition of railroads, for additions, betterments or improvements, or for any other purposes specified in said Paragraphs.

(2) The aggregate of the amount of bonds issuable and the amount of deposited cash (to the extent that it represents cash deposited with the Corporate Trustee against the authentication of bonds) payable under Paragraph II of Section 6 of Article Three of the Mortgage, to pay for or in reimbursement of expenditures made after December 31, 1944 for the purposes specified in said Paragraph II, shall be limited to seventy-five per cent of the excess of capital expenditures (exclusive of expenditures certified to the Corporate Trustee in connection with the withdrawal of deposited cash other than cash deposited with the Corporate Trustee against the authentication of bonds) charged to Investment in Road Accounts of the Railroad Company (being the primary accounts numbered 1 to 47, inclusive, under I Road, as presently or from time to time prescribed for Steam Railroads by the Interstate Commerce Commission) in connection with the making of such expenditure over the credits to said accounts for land, and property retired and replaced, in connection with the making of the additions, betterments or improvements for which such expenditures are incurred, but without deducting any credits to said accounts for land or property retired and not replaced.

(3) The Railroad Company will not request authentication and delivery of any additional bonds or payment of deposited cash (to the extent that it represents cash deposited with the Corporate Trustee against the authentication of bonds) under Paragraph III of Section 6 of Article Three of the Mortgage, to pay for, or in reimbursement of, expenditures for the purposes specified in said Paragraph III.

(4) The Railroad Company will not request authentication and delivery of any additional bonds or payment of deposited cash (to the extent that it represents cash deposited with the Corporate Trustee against the authentication of bonds) under Paragraph V of Section 6 of Article Three of the Mortgage for the payment or refunding of any indebtedness contracted for expenditures made prior to January 1, 1945 for the purposes specified in Paragraphs I and II of Section 6 of Article Three of the Mortgage, or for expenditures for the purposes specified in Paragraph III of Section 6 of Article Three of the Mortgage, or for expenditures made subsequent to December 31, 1944 for the purposes specified in said Paragraph II in excess of the amount of such expenditures against which bonds might be authenticated pursuant to clause (2) above.

In addition to the certificate or certificates required to be delivered to the Corporate Trustee in connection with requests for authentication of bonds or payment of deposited cash under Section 6 of Article Three of the Mortgage the Railroad Company, when requesting authentication of bonds or payment of deposited cash (to the extent that it represents cash deposited with the Corporate Trustee against the authentication of bonds) for the purposes specified in Paragraphs I, II and V of said Section 6, shall deliver an additional certificate or certificates to show that the amount or amounts requested are not in excess of the amount permissible under the covenants set forth in this Article Two.

ARTICLE THREE.

The Trustees hereby accept the trust herein declared and provided and agree to perform the same upon the terms and conditions in the Mortgage set forth and upon the following terms and conditions:

The Trustees shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or the due execution hereof by the Railroad Company or for or in respect of the recitals contained herein, all of which recitals are made by the Railroad Company solely. The Trustees shall be under no obligation to see to the filing, registration or recording of this Supplemental Indenture or to the refiling, reregistration or rerecording thereof but the Railroad Company covenants to effect when and as may be required by law the filing, registration or recording and the refiling, reregistration or rerecording hereof. The Corporate Trustee may authenticate and deliver any of the Series of 1985 Bonds herein provided for without waiting for any such filing, registration, recording or refiling, reregistration or rerecording. In general, each and every term and condition contained in Article Thirteen of the Mortgage shall apply to and form a part of this Supplemental Indenture with the same force and effect as if the same were herein set forth in full with such omissions, variations and insertions as may be appropriate to make the same conform to this Supplemental Indenture.

ARTICLE FOUR.

The Railroad Company, subject to the provisions of Article Twelve of the Mortgage, will at all times maintain and continue its corporate existence and right to carry on business and duly will procure all necessary renewals and extensions thereof.

ARTICLE FIVE.

This Supplemental Indenture may be executed simultaneously in several counterparts, each of which so executed shall be deemed to be an original; and such counterparts shall together constitute but one and the same instrument.

ARTICLE SIX.

This is a Supplemental Indenture to the Mortgage, executed pursuant to the provisions thereof, and each and every part of this Supplemental Indenture and each and every covenant contained herein shall be and become a part of the Mortgage and each of the Covenants and obligations of the Railroad Company herein contained shall be, except as herein otherwise provided, subject to the provisions of said Mortgage.

IN WITNESS WHEREOF, Chicago, Burlington & Quincy Railroad Company, the party hereto of the first part, has caused this Supplemental Indenture to be signed in its corporate name and acknowledged or proved by its President or a Vice-President, and its corporate seal to be hereunto affixed and the same to be attested by the signature of its Secretary or an Assistant Secretary; and The First National Bank of the City of New York, as Corporate Trustee, one of the parties hereto of the second part, has caused this Supplemental Indenture to be signed and acknowledged or proved by its President or a Vice-President, and its corporate seal to be hereunto affixed and the same to be attested by the signature of its Cashier or an Assistant Cashier; and Frazier L. Ford, as Individual Trustee, the other of the parties

hereto of the second part, has hereunto set his hand and seal, as of the 1st day of August, 1945.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY,

By E. J. James
Vice-President.

Attest:
Assistant *Secretary.*

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,

By Henry S. Sturgis
Vice-President.

Attest:
Assistant Cashier.

Frazier L Ford (L. S.)

Signed, sealed and delivered in presence of:

AS TO CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY:

AS TO THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK:

AS TO FRAZIER L. FORD:

STATE OF NEW YORK, }
COUNTY OF NEW YORK } ss.:

I, THOMAS A. COLLINS, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 28th day of November, 1945, personally appeared before me within said County and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument,

Henry S. Sturgis and W. E. GERDES, each to me personally known and known to me to be respectively a Vice-President and Assistant Cashier of The First National Bank of the City of New York, one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and executed said instrument as such Vice-President and Assistant Cashier, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and the said Henry S. Sturgis and W. E. GERDES, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said Henry S. Sturgis resides in Cedarhurst, N. Y.; and that the said W. E. GERDES resides in New York, N. Y.; that said Henry S. Sturgis is a Vice-President and said W. E. GERDES is an Assistant Cashier of The First National Bank of the City of New York, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Henry S. Sturgis and W. E. GERDES, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective

capacities as Vice-President and Assistant Cashier in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation, and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public in the said County of New York, State of New York, this the day and year in this my certificate first above written.

Thomas A. Collins

THOMAS A. COLLINS, NOTARY PUBLIC, QUEENS CO. CLK'S NO. 369
N. Y. COUNTY CLERK'S NO. 142, REG. NO. 88-C-8
COMMISSION EXPIRES MARCH 30, 1946

My commission expires .....

STATE OF MISSOURI, }
COUNTY OF BUCHANAN } ss.:

I, Margaret Pope, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 21st day of November, 1945, personally appeared before me within the said County and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, FRAZIER L. FORD, to me personally known and known to me to be the individual and the identical person who is described in and who subscribed his name to and who executed the within and foregoing instrument in writing in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said FRAZIER L. FORD duly acknowledged to me in the presence of said witnesses that he signed, sealed, executed and delivered the said instrument freely and voluntarily and as his free and voluntary act and deed for the consideration, objects, uses and purposes therein stated and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public in said County of Buchanan, State of Missouri, this the day and year in this my certificate first above written.

Margaret Pope

My commission expires July 27, 1949

STATE OF ILLINOIS, }
COUNTY OF COOK } ss.:

I, A. D. McLane, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 19th day of November, 1945, personally appeared before me within said County and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, J C James and Bert Uckery, each to me personally known and known to me to be respectively VICE President and Assistant Secretary of Chicago, Burlington & Quincy Railroad Company, one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such VICE President and Assistant Secretary respectively in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said J C James and Bert Uckery, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said J C James resides in the City of ~~Chicago~~ Evanston and State of Illinois, and that the said Bert Uckery resides in the City of Evanston and State of Illinois; that said J C James is VICE President and said Bert Uckery is Assistant Secretary of Chicago, Burlington & Quincy Railroad Company, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said J C James and Bert Uckery, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as VICE President and Assistant Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed by official seal as such Notary Public, in the said County of Cook, State of Illinois, this the day and year in this my certificate first above written.

A D McLane

Notary Public, Cook County.

My commission expires March 20, 1949

State of Wisconsin } ss.
DEPARTMENT OF STATE

Received this 18th day of June A. D. 1946 at 9:00 o'clock A.M. and recorded in Vol. 39 of Railroad Mortgages on pages 173-186 incl.

[illegible]
Assistant Secretary of State

(6362)

Fee $11.25

Second Supplemental Indenture

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

TO

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK

AND

FRAZIER L. FORD
TRUSTEES

DATED AS OF AUGUST 1, 1945

SUPPLEMENTAL TO FIRST AND REFUNDING MORTGAGE
DATED FEBRUARY 1, 1921

THE SUNTHORP-WARREN PRINTING COMPANY, 310 WEST JACKSON, CHICAGO

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THIS SECOND SUPPLEMENTAL INDENTURE, dated as of August 1, 1945, between CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, a corporation created and existing under the laws of the State of Illinois, hereinafter called the "Railroad Company", party of the first part, and THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, a corporation created and existing under the laws of the United States, hereinafter called the "Corporate Trustee" and FRAZIER L. FORD, a citizen of the State of Missouri, hereinafter called the "Individual Trustee", the Corporate Trustee and the Individual Trustee, collectively, being hereinafter called the "Trustees", parties of the second part.

WHEREAS, a certain First and Refunding Mortgage dated February 1, 1921, hereinafter called the "Mortgage", has been heretofore executed and acknowledged by the Railroad Company and the Trustees; and

WHEREAS, the Railroad Company and the Trustees entered into a Supplemental Indenture to the Mortgage, dated as of August 1, 1944, evidencing the terms and provisions, including redemption and sinking fund provisions, of the series of bonds issued under the Mortgage known as the Series of 1974, $40,000,000 principal amount of which were issued; and

WHEREAS, the Railroad Company and the Trustees entered into a Supplemental Indenture to the Mortgage, dated as of August 1, 1945, evidencing the terms and provisions, including redemption and sinking fund provisions, of the series of bonds issued under the Mortgage known as the Series of 1985 Bonds, $65,000,000 principal amount of which were issued; and

WHEREAS, the Railroad Company has by proper corporate action authorized the issuance and sale of an additional series of bonds under said Mortgage to be known as its First and Refunding Mortgage Series of 1970 2⅞% Bonds, due August 1, 1970, hereinafter referred to as the "Series of 1970 2⅞% Bonds" in the principal amount of $49,765,000; and

WHEREAS, Article Eleven of the Mortgage provides that the Railroad Company, when authorized by resolution of its Board of Directors, and the Trustees, from time to time and at any time, may enter into an indenture supplemental thereto and which thereafter shall form a part thereof and be binding upon the holders of all bonds then outstanding or which may thereafter be outstanding thereunder,

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for purposes necessary or desirable and not inconsistent with the Mortgage; and

WHEREAS, the Series of 1970 2⅞% Bonds are to be entitled to the benefits of a sinking fund as hereinafter provided; and

WHEREAS, the Railroad Company desires, by this Supplemental Indenture, to evidence the terms and provisions, including redemption and sinking fund provisions, as determined by its Board of Directors, of the Series of 1970 2⅞% Bonds, all as more fully herein set forth; and

WHEREAS, all acts and things prescribed by law and by the charter and the by-laws of the Railroad Company to authorize the execution and delivery of these presents have been duly performed and complied with; and

WHEREAS, the forms of the Series of 1970 2⅞% Bonds in coupon form, of the coupons to be attached thereto, of the Series of 1970 2⅞% Bonds in registered form and of the Trustee's certificate to be endorsed on the Series of 1970 2⅞% Bonds are to be severally and respectively substantially as follows:

[FORM OF COUPON BOND]

No..... $1,000

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

FIRST AND REFUNDING MORTGAGE SERIES OF 1970 2⅞%

COUPON BOND

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY (hereinafter called the "Railroad Company"), a corporation of the State of Illinois, for value received, hereby promises to pay to bearer, or, if this bond be registered, then to the registered holder hereof, on the first day of August, 1970, at the office or agency of the Railroad Company in the Borough of Manhattan, City of New York, State of New York, the sum of One Thousand 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, in like coin or currency, interest thereon from August 1, 1945, at the rate of 2⅞ per cent per annum, such interest to be payable at such office or agency, semi-annually on the first day of February and on the first day of August in each year until the payment of said principal sum, but only upon presentation and surrender of the coupons therefor hereto attached as they severally mature. This Series of 1970 2⅞% Bond is one of the First and Refunding Mortgage Bonds (coupon and registered) of the Railroad Company, issued and to be issued in one or more series under and pursuant to, and all equally secured by, an indenture of mortgage or deed of trust dated February 1, 1921, duly executed by the Railroad Company to The First National Bank of the City of New York, a corporation of the United States of America, and Frazier L. Ford, as Trustees, to which indenture and any and all supplements thereto, reference is hereby made for a description of the railroads, properties and franchises mortgaged or pledged to said Trustees, or their successors, the nature and extent of the security, and the rights of the holders of said bonds and of the Trustees in respect of such security. At any time the authorized issue of bonds under said indenture is limited to an amount which, together with all then outstanding prior debt of the Railroad Company or of a successor corporation (as such prior debt is defined in the indenture aforesaid) after deducting therefrom the bonds then reserved under the provisions of said indenture to retire prior debt before, at or after maturity, shall be equal to three times the par value of the then outstanding fully paid capital stock of the Railroad Company or of a successor corporation. In case of certain defaults specified in said indenture, the principal of all such bonds may be declared and may become due and payable in the manner and with the effect provided in said indenture. As provided in the Second Supplemental Indenture dated as of August 1, 1945, the Railroad Company covenants that, as and for a sinking fund, it will pay to the Corporate Trustee, on or before the first day of May in each calendar year from 1946 to 1969, inclusive, $248,825 to be used by said Trustee for the purchase of Series of 1970 2⅞% Bonds, or for the redemption thereof at the applicable sinking fund redemption prices hereinafter set forth. At its option, the Railroad Company, in lieu of making all or part of any sinking fund payment in cash, may surrender to the Corporate Trustee, and said Trustee will accept at the amount paid therefor by the Railroad Company, but not in excess of the then applicable sinking fund redemption price, Series of 1970 2⅞% Bonds acquired by the Railroad Company, either canceled or uncanceled (except bonds retired by operation of the sinking fund). Series of 1970 2⅞%

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Bonds to be redeemed will be determined by the Corporate Trustee by lot, in such manner as said Trustee deems proper. When such bonds have been redeemed and paid off by said Trustee, they shall be cancelled by the Trustee and returned to the Railroad Company. The Railroad Company will provide the Corporate Trustee, in addition to the amounts or bonds required for the sinking fund, with the amounts necessary to pay any accrued interest and brokerage commissions and the Trustee's charges and expenses.

As provided in said indenture, said Second Supplemental Indenture and in the resolution creating this series, upon notice published in a newspaper in the Borough of Manhattan, City and State of New York, at least once in each week for nine successive weeks next preceding said first day of February or August, first publication to be not less than sixty (60) days before the redemption date, all or any part of the Series of 1970 2⅞% Bonds may be redeemed at the option of the Railroad Company on any interest date at the following redemption prices (expressed in percentages of the principal amount), together with accrued interest to the date of redemption:

When redeemed for purposes other than the sinking fund, the redemption prices shall be:

FROM	TO	%
Aug. 1, 1945	July 31, 1949,	105¾
Aug. 1, 1949	July 31, 1953,	104⅞
Aug. 1, 1953	July 31, 1957,	103⅞
Aug. 1, 1957	July 31, 1961,	102⅞
Aug. 1, 1961	July 31, 1965,	101⅞
Aug. 1, 1965	July 31, 1969,	101
Aug. 1, 1969	Maturity	100

When redeemed through operation of the sinking fund, the redemption prices shall be:

FROM	TO	%
Aug. 1, 1945	July 31, 1949,	102⅜
Aug. 1, 1949	July 31, 1953,	102⅜
Aug. 1, 1953	July 31, 1957,	101⅞
Aug. 1, 1957	July 31, 1961,	101⅜
Aug. 1, 1961	July 31, 1965,	100⅞
Aug. 1, 1965	July 31, 1969,	100½
Aug. 1, 1969	Maturity	100

Series of 1970 2⅞% Bonds with coupons are issuable in the denomination of $1,000. Series of 1970 2⅞% Bonds in registered form

without coupons are issuable in denominations of $1,000, $5,000, $10,000, $50,000, $100,000, and in such other denominations as the Board of Directors or Executive Committee of the Railroad Company may determine. Unless registered as herein provided, this bond shall pass by delivery. Any coupon bond may be registered as to principal in the owner's name at the office or agency of the Railroad Company in the Borough of Manhattan, City of New York, such registry being noted on the bond, after which no transfer shall be valid unless made by the registered owner, in person or by attorney, and similarly noted on the bond; but the same may be discharged from registry by like transfer to bearer noted on the bond; whereupon transferability by delivery shall be restored. Such registration, however, shall not affect the negotiability of the coupons for the interest on the bond, and such coupons shall continue to be payable to bearer and to be transferable by delivery merely, and payment thereof shall fully discharge the Railroad Company in respect of the interest therein mentioned, whether or not the bond be registered. In the manner prescribed in said indenture and upon payment of the charges therein provided, the holder of any coupon bond or bonds for $1,000, at his option, may surrender for cancellation such bond or bonds, with all unmatured coupons, in exchange for a registered bond or bonds without coupons of the same series for the same aggregate principal amount. Any such registered bond, in like manner, and upon payment of the charges provided in said indenture, may in turn be exchanged for a coupon bond or coupon bonds of the same series for the same aggregate principal amount and bearing all unmatured coupons. No recourse shall be had for the payment of the principal of or the interest upon this bond, or for any claim based hereon, or otherwise in respect hereof, or of said indenture under which this bond is issued, against any incorporator, stockholder, officer or director, past, present or future, of the Railroad Company or of any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration of the issue hereof, expressly released as provided in said indenture. This bond shall not be entitled to any security or benefit under said indenture, and shall not become valid or obligatory for any purpose, until it has been authenticated by the execution of the certificate, hereon endorsed, by The First National Bank of the City of New York, as Corporate Trustee, or its successor in trust under said indenture.

IN WITNESS WHEREOF the Railroad Company has caused this bond to be signed by its President or a Vice President, and its corporate seal to be hereunto affixed and attested by its Secretary or an Assis-

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Trustee, and said Trustee will accept at the amount paid therefor by the Railroad Company, but not in excess of the then applicable sinking fund redemption price, Series of 1970 2⅞% Bonds acquired by the Railroad Company, either canceled or uncanceled (except bonds retired by operation of the sinking fund). Series of 1970 2⅞% Bonds to be redeemed will be determined by the Corporate Trustee by lot, in such manner as said Trustee deems proper. When such bonds have been redeemed and paid off by said Trustee, they shall be canceled by the Trustee and returned to the Railroad Company. The Railroad Company will provide the Corporate Trustee, in addition to the amounts or bonds required for the sinking fund, with the amounts necessary to pay any accrued interest and brokerage commissions and the Trustee's charges and expenses.

As provided in said indenture, said Second Supplemental Indenture, and in the resolution creating this series, upon notice published in a newspaper in the Borough of Manhattan, City and State of New York, at least once in each week for nine successive weeks next preceding said first day of February or August, first publication to be not less than sixty (60) days before the redemption date, all or any part of the Series of 1970 2⅞% Bonds may be redeemed at the option of the Railroad Company on any interest date at the following redemption prices (expressed in percentages of the principal amount), together with accrued interest to the date of redemption:

When redeemed for purposes other than the sinking fund, the redemption prices shall be:

FROM	TO	%
Aug. 1, 1945	July 31, 1949,	105¾
Aug. 1, 1949	July 31, 1953,	104⅞
Aug. 1, 1953	July 31, 1957,	103⅞
Aug. 1, 1957	July 31, 1961,	102⅞
Aug. 1, 1961	July 31, 1965,	101⅞
Aug. 1, 1965	July 31, 1969,	101
Aug. 1, 1969	Maturity	100

When redeemed through operation of the sinking fund, the redemption prices shall be:

FROM	TO	%
Aug. 1, 1945	July 31, 1949,	102⅜
Aug. 1, 1949	July 31, 1953,	102⅜
Aug. 1, 1953	July 31, 1957,	101⅞
Aug. 1, 1957	July 31, 1961,	101⅜
Aug. 1, 1961	July 31, 1965,	100⅞
Aug. 1, 1965	July 31, 1969,	100½
Aug. 1, 1969	Maturity	100

Series of 1970 2⅞% Bonds with coupons are issuable in the denomination of $1,000. Series of 1970 2⅞% Bonds in registered form without coupons are issuable in denominations of $1,000, $5,000, $10,000, $50,000, $100,000, and in such other denominations as the Board of Directors or Executive Committee of the Railroad Company may determine. This bond is transferable only in the manner prescribed in said indenture at the office or agency of the Railroad Company in the Borough of Manhattan, City of New York, upon surrender and cancellation of this bond; and upon any such transfer a new registered bond without coupons of the same series will be issued to the transferee, in exchange therefor. This bond also, in the manner prescribed in said indenture, is exchangeable for coupon bond or bonds of the same series, for the same aggregate principal amount and bearing all unmatured coupons. Any such coupon bond or bonds bearing all unmatured coupons, in like manner may in turn be exchanged for registered bond or bonds without coupons of the same series for the same aggregate principal amount. Registered bonds, without coupons, of this series, of one denomination, are exchangeable for a like principal amount of registered bonds, without coupons, of the same series, of other authorized denominations. For such transfer or exchange, a charge may be made as provided in said indenture. No recourse shall be had for the payment of the principal of or the interest upon this bond, or for any claim based hereon, or otherwise in respect hereof, or of said indenture under which this bond is issued, against any incorporator, stockholder, officer or director, past, present or future, of the Railroad Company or of any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration of the issue hereof, expressly released as provided in said indenture. This bond shall not be entitled to any security or benefit under said indenture, and shall not become valid or obligatory for any purpose, until it has been authenticated by the execution of the certificate, hereon endorsed, by The First National Bank of the City of New York, as Corporate Trustee, or its successor in trust under said indenture.

IN WITNESS WHEREOF the Railroad Company has caused this bond to be signed by its President or a Vice President, and its corporate seal to be hereunto affixed and attested by its Secretary or an Assistant Secretary.

Dated the ..... day of ....., 19....

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY,

By.....

Vice President.

ATTEST:

.....

Assistant Secretary.

(SEAL)

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tant Secretary, and coupons for said interest, bearing the engraved facsimile signature of its Treasurer, to be attached hereto.
Dated the 1st day of August, 1945.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY,
By.....
Vice President.

ATTEST:

.....
Assistant Secretary.

(SEAL)

[FORM OF INTEREST COUPON]

No..... $.....

On the first day of ....., CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY will pay to bearer, at its office or agency in the Borough of Manhattan, City of New York, ... and ..... 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, being six months' interest then due on its First and Refunding Mortgage Series of 1970 2¾% Bond No. ....., unless said bond shall have been called for previous redemption and payment duly provided for.

.....
Treasurer.

[FORM OF REGISTERED BOND]

No..... $.....

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

FIRST AND REFUNDING MORTGAGE SERIES OF 1970 2¾%

REGISTERED BOND

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY (hereinafter called the "Railroad Company"), a corporation of the State of Illinois, for value received, hereby promises to pay to ..... or registered assigns, on the first day of August, 1970, at the office or agency of the Railroad Company in the Borough of

Manhattan, City of New York, State of New York, the 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 payment of public and private debts, and to pay interest thereon at the rate of 2¾ per cent per annum, from the first day of February or August, as the case may be, to which interest has been paid last preceding the date hereof, unless such date is a February 1 or August 1 to which interst has been paid, in which case from such date, or unless such date is prior to February 1, 1946, in which case from August 1, 1945, such interest to be payable to the registered holder hereof at such office or agency, in like coin or currency, semi-annually on the first day of February and on the first day of August in each year until the payment of said principal sum. This Series of 1970 2¾% Bond is one of the First and Refunding Mortgage Bonds (coupon and registered) of the Railroad Company, issued and to be issued in one or more series under and pursuant to, and all equally secured by, an indenture of mortgage or deed of trust dated February 1, 1921, duly executed by the Railroad Company to The First National Bank of the City of New York, a corporation of the United States of America, and Frazier L. Ford, as Trustees, to which indenture and any and all supplements thereto, reference is hereby made for a description of the railroads, properties and franchises mortgaged or pledged to said Trustees, or their successors, the nature and extent of the security, and the rights of the holders of said bonds and of the Trustees in respect of such security. At any time the authorized issue of bonds under said indenture is limited to an amount which, together with all then outstanding prior debt of the Railroad Company or of a successor corporation (as such prior debt is defined in the indenture aforesaid) after deducting therefrom the bonds then reserved under the provisions of said indenture to retire prior debt before, at or after maturity, shall be equal to three times the par value of the then outstanding fully paid capital stock of the Railroad Company or of a successor corporation. In case of certain defaults specified in said indenture, the principal of all such bonds may be declared and may become due and payable in the manner and with the effect provided in said indenture. As provided in the Second Supplemental Indenture dated as of August 1, 1945, the Railroad Company covenants that, as and for a sinking fund, it will pay to the Corporate Trustee, on or before the first day of May in each calendar year from 1946 to 1969, inclusive, $248,825 to be used by said Trustee for the purchase of Series of 1970 2¾% Bonds, or for the redemption thereof at the appplicable sinking fund redemption prices hereinafter set forth. At its option, the Railroad Company, in lieu of making all or part of any sinking fund payment in cash, may surrender to the Corporate

[FORM OF CORPORATE TRUSTEE'S CERTIFICATE]

This bond is one of the issue of bonds, of the series designated therein, described in the within-mentioned indenture.

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,
Corporate Trustee,
By.....
Authorized Officer.

NOW, THEREFORE, this Second Supplemental Indenture WITNESSETH:

That, in consideration of the premises and of the sum of Ten Dollars ($10) lawful money of the United States of America to the Railroad Company duly paid by the Corporate Trustee at or before the ensealing and delivery of this Second Supplemental Indenture, and other good and valuable consideration, the receipt whereof is hereby acknowledged, the Railroad Company has executed and delivered this Second Supplemental Indenture and covenants and agrees with the Trustees and with the respective holders from time to time of the Bonds and coupons issued and to be issued under said Mortgage as follows:

ARTICLE ONE.

SECTION 1. The Series of 1970 2¾% Bonds shall be issued and authenticated under and in accordance with the provisions of the Mortgage in an aggregate principal amount at any one time outstanding of not to exceed $49,765,000 except Series of 1970 2¾% Bonds issued in lieu of and in substitution for Series of 1970 2¾% Bonds destroyed or lost or stolen as provided in Section 4 of Article Two of the Mortgage, shall mature August 1, 1970, and shall bear interest at the rate of 2¾% per annum, payable February 1 and August 1 in each year until the principal sum is paid. The Series of 1970 2¾% Bonds shall be issuable in coupon form, registerable as to principal, in the denomination of $1,000, and in fully registered form in denominations of $1,000, $5,000, $10,000, $50,000, $100,000 and such other denominations as the Board of Directors or Executive Com-

mittee of the Railroad Company may from time to time determine. The Series of 1970 2¾% Bonds in coupon form shall be dated August 1, 1945 and in fully registered form shall be dated the date of issue and will bear interest from the first day of February or the first day of August, as the case may be, to which interest has been paid last preceding the date thereof, unless such date is a February 1 or August 1 to which interest has been paid, in which case they shall bear interest from such date, or unless such date is prior to February 1, 1946 in which case they shall bear interest from August 1, 1945.

SECTION 2. The Series of 1970 2¾% Bonds shall be redeemable at the option of the Railroad Company, as a whole or in part on any interest payment date or dates prior to maturity, upon payment of the following percentages of the principal amount thereof, all in the manner and with the effect provided in Article Four of the Mortgage:

FROM	TO	%
Aug. 1, 1945	July 31, 1949,	105¾
Aug. 1, 1949	July 31, 1953,	104¾
Aug. 1, 1953	July 31, 1957,	103¾
Aug. 1, 1957	July 31, 1961,	102¾
Aug. 1, 1961	July 31, 1965,	101¾
Aug. 1, 1965	July 31, 1969,	101
Aug. 1, 1969	Maturity	100

In each case accrued interest on the principal amount to the date designated for redemption shall be paid in addition to the above redemption prices.

The Series of 1970 2¾% Bonds may also be redeemed in part from time to time through the operation of the Series of 1970 2¾% Sinking Fund provided for in Section 3 of this Article, at the sinking fund redemption prices and in the manner in such Section set forth.

If prior to the date of redemption designated in any notice of redemption, the Railroad Company shall deposit with the Corporate Trustee funds sufficient to pay the applicable redemption price of all Bonds so called for redemption in such notice, together with accrued interest to the date designated for redemption, and either (a) the giving of notice of such redemption in the manner therefor provided

in the Mortgage shall have been completed or (b) the Railroad Company shall have irrevocably authorized the Corporate Trustee to give such notice of redemption, then, and in either event, the Series of 1970 2¾% Bonds so called for redemption shall, on and after the date of such deposit, no longer be deemed to be outstanding and shall no longer be entitled to any right or benefit under the Mortgage or any supplemental indenture thereto, except the right to receive the redemption price, together with accrued interest to the date designated for redemption.

SECTION 3. The Railroad Company agrees with the Trustees that so long as any Series of 1970 2¾% Bonds are outstanding, it will pay to the Corporate Trustee on or before the first day of May in each year, beginning May 1, 1946 and to and including May 1, 1969 $248,825, to be used as a sinking fund for the purchase of the Bonds or their redemption at the then applicable redemption prices. In lieu of all or part of any sinking fund payment, the Railroad Company may surrender to the Corporate Trustee, and the Corporate Trustee shall accept, Series of 1970 2¾% Bonds acquired by the Railroad Company, at values equal to the cost thereof to the Railroad Company or the then applicable sinking fund redemption price, whichever is less. Such cost shall be exclusive of brokerage and accrued interest, and shall be shown by a certificate signed by the President, Vice President, Treasurer or Assistant Treasurer of the Railroad Company. The Corporate Trustee shall be protected in relying on any such certificate as to cost, and shall be under no duty to make any verification of or investigation or inquiry as to any part thereof.

Series of 1970 2¾% Bonds shall be redeemable through the operation of the Series of 1970 2¾% Bonds Sinking Fund at the following percentages of the principal amount thereof, all in the manner and with the effect provided in Article Four of the Mortgage:

FROM	TO	%
Aug. 1, 1945	July 31, 1949,	102⅜
Aug. 1, 1949	July 31, 1953,	102⅜
Aug. 1, 1953	July 31, 1957,	101⅞
Aug. 1, 1957	July 31, 1961,	101⅜
Aug. 1, 1961	July 31, 1965,	100⅞
Aug. 1, 1965	July 31, 1969,	100½
Aug. 1, 1969	Maturity	100

In each case accrued interest on the principal amount to the date designated for redemption shall be paid in addition to the above sinking fund redemption prices.

The sinking fund payment so made on any such May 1, subject to credits and plus any balances added thereto as hereinafter provided, is hereinafter referred to as a "Series of 1970 2¾% Bonds Sinking Fund installment".

At any time after the receipt of any Series of 1970 2¾% Bonds Sinking Fund installment and until May 15 in each year, the Corporate Trustee, in such manner and at such time or times and in such amounts as it may deem advisable in its discretion, or in such manner and at such time or times and in such amounts as may be directed by the Railroad Company, shall apply any moneys then held by it in the Series of 1970 2¾% Bonds Sinking Fund to the purchase for the Series of 1970 2¾% Bonds Sinking Fund of Series of 1970 2¾% Bonds, including all unmatured coupons and interest obligations thereto appertaining, at prices (exclusive of brokerage commission and accrued interest) not exceeding the sinking fund redemption price for the Series of 1970 2¾% Bonds prevailing on the next ensuing August 1, if available at or below such price. The Railroad Company covenants to reimburse the Series of 1970 2¾% Bonds Sinking Fund forthwith, on the request of the Corporate Trustee, for the amount of any brokerage commission and accrued interest paid for such purposes out of the Series of 1970 2¾% Bonds Sinking Fund.

If upon May 15 in any year the Trustee shall have on hand in the Series of 1970 2¾% Bonds Sinking Fund $50,000 or more, it shall thereupon select or cause to be selected by lot and called for redemption for account of the Series of 1970 2¾% Bonds Sinking Fund an aggregate principal amount of Series of 1970 2¾% Bonds which will most nearly exhaust the amount on hand, and the Corporate Trustee shall forthwith apply the same, together with the amount in respect of accrued interest paid to the Trustee pursuant to the next succeeding sentence, to the redemption of the Series of 1970 2¾% Bonds so called for redemption at the sinking fund redemption price prevailing

on the next ensuing August 1. The Railroad Company agrees to pay to the Trustee on or before the May 15 prior to the date designated for such redemption accrued interest to such designated redemption date, it being the intention that accrued interest shall not be charged against sinking fund moneys.

Notice of redemption shall be given by the Corporate Trustee in substantially the same manner as provided in Section 1 of Article Four of the Mortgage for the giving of notice of redemption by the Railroad Company, provided that in addition to the matters set forth in the notice of redemption referred to in said Section 1 of Article Four of the Mortgage, such notice of redemption shall state that the Series of 1970 2¾% Bonds so called for redemption are being redeemed through the operation of the Series of 1970 2¾% Bonds Sinking Fund.

In the event that there shall remain any balance of Series of 1970 2¾% Bonds Sinking Fund moneys after the application of so much thereof as is required for such redemption as above provided, or without such application, if such balance shall be less than $50,000, such balance shall be retained by the Corporate Trustee and added to the next succeeding Series of 1970 2¾% Bonds Sinking Fund installment; *provided* that any balance of the Series of 1970 2¾% Bonds Sinking Fund remaining after all of Series of 1970 2¾% Bonds have been retired or called for redemption pursuant to Section 2 of this Article One and Article Four of the Mortgage shall be returned to the Railroad Company.

All Series of 1970 2¾% Bonds purchased through the operation of the Series of 1970 2¾% Bonds Sinking Fund and all Series of 1970 2¾% Bonds delivered by the Railroad Company to the Corporate Trustee for the account of the Series of 1970 2¾% Bonds Sinking Fund, together with all unmatured coupons thereto appertaining, shall be cancelled by the Corporate Trustee if not previously cancelled by the Railroad Company and all Series of 1970 2¾% Bonds redeemed through the operation of the Sinking Fund shall be cancelled by the Corporate Trustee, and no Bonds of the Railroad Company shall be

issued in lieu of any thereof so long as any of the Series of 1970 2¾% Bonds are outstanding.

The Railroad Company covenants to pay the compensation and expenses of the Corporate Trustee in administering the Series of 1970 2¾% Bonds Sinking Fund as provided herein, including the cost of advertisement of redemption notices and other expenses.

Default in the payment of any Series of 1970 2¾% Bonds Sinking Fund installment as herein provided which shall continue for thirty days is hereby made an additional event of default under Section 2 of Article Seven of the Mortgage.

SECTION 4. Any moneys which at any time shall be deposited by the Railroad Company or on its behalf with the Corporate Trustee or any other depositary for the purpose of paying any of the Series of 1970 2¾% Bonds which have become due and payable, whether at the maturity thereof or upon call for redemption or otherwise, or for the purpose of paying any coupons or claims for interest appertaining to any of the Series of 1970 2¾% Bonds, shall be and hereby are assigned, transferred and set over to the Corporate Trustee or such depositary, as the case may be, to be held in trust for the respective holders of the Series of 1970 2¾% Bonds or coupons or claims for interest appertaining thereto, for the purpose of paying which said moneys shall have been deposited, subject to the provisions of the Mortgage, *provided, however,* that the Trustee shall reimburse the Railroad Company, from time to time, out of the funds paid to the Trustee for the purpose of paying interest, for all or any part of any accrued interest paid by the Railroad Company at its office or agency on the Bonds which have so become due and payable.

ARTICLE TWO.

So long as any of the Series of 1970 2¾% Bonds are outstanding with the public or until adequate provision has been made for payment of such bonds, the Railroad Company covenants as follows:

(1) The Railroad Company will not request authentication and delivery of any additional bonds under Section 5 of Article

Three of the Mortgage or the authentication and delivery of any additional bonds or payment of any deposited cash under Paragraphs I, II or VI of Section 6 of Article Three of the Mortgage, to pay for, or in reimbursement of, expenditures made prior to January 1, 1945 for construction or acquisition of railroads, for additions, betterments or improvements, or for any other purposes specified in said Paragraphs.

(2) The aggregate of the amount of bonds issuable and the amount of deposited cash (to the extent that it represents cash deposited with the Corporate Trustee against the authentication of bonds) payable under Paragraph II of Section 6 of Article Three of the Mortgage, to pay for or in reimbursement of expenditures made after December 31, 1944 for the purposes specified in said Paragraph II, shall be limited to seventy-five per cent of the excess of capital expenditures (exclusive of expenditures certified to the Corporate Trustee in connection with the withdrawal of deposited cash other than cash deposited with the Corporate Trustee against the authentication of bonds) charged to Investment in Road Accounts of the Railroad Company (being the primary accounts numbered 1 to 47, inclusive, under I Road, as presently or from time to time prescribed for Steam Railroads by the Interstate Commerce Commission) in connection with the making of such expenditure over the credits to said accounts for land, and property retired and replaced, in connection with the making of the additions, betterments or improvements for which such expenditures are incurred, but without deducting any credits to said accounts for land or property retired and not replaced.

(3) The Railroad Company will not request authentication and delivery of any additional bonds or payment of deposited cash (to the extent that it represents cash deposited with the Corporate Trustee against the authentication of bonds) under Paragraph III of Section 6 of Article Three of the Mortgage, to pay for, or in reimbursement of, expenditures for the purposes specified in said Paragraph III.

(4) The Railroad Company will not request authentication and delivery of any additional bonds or payment of deposited cash (to the extent that it represents cash deposited with the Corporate Trustee against the authentication of bonds) under Paragraph V of Section 6 of Article Three of the Mortgage for the payment or refunding of any indebtedness contracted for expenditures made prior to Januray 1, 1945 for the purposes specified in Paragraphs I and II of Section 6 of Article Three of the Mortgage, or for expenditures for the purposes specified in Paragraph III of Section 6 of Article Three of the Mortgage,

or for expenditures made subsequent to December 31, 1944 for the purposes specified in said Paragraph II in excess of the amount of such expenditures against which bonds might be authenticated pursuant to clause (2) above.

(5) The Railroad Company will not request authentication and delivery of any bonds under Section 8(a) of Article Three of the Mortgage in exchange for the $507,000 principal of First and Refunding Mortgage 3¾% Bonds, Series of 1974, retired through operation of the sinking fund created for said Series.

In addition to the certificate or certificates required to be delivered to the Corporate Trustee in connection with requests for authentication of bonds or payment of deposited cash under Section 6 of Article Three of the Mortgage the Railroad Company, when requesting authentication of bonds or payment of deposited cash (to the extent that it represents cash deposited with the Corporate Trustee against the authentication of bonds) for the purposes specified in Paragraphs I, II and V of said Section 6, shall deliver an additional certificate or certificates to show that the amount or amounts requested are not in excess of the amount permissible under the covenants set forth in this Article Two.

ARTICLE THREE.

The Trustees hereby accept the trust herein declared and provided and agree to perform the same upon the terms and conditions in the Mortgage set forth and upon the following terms and conditions:

The Trustees shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Second Supplemental Indenture or the due execution hereof by the Railroad Company or for or in respect of the recitals contained herein, all of which recitals are made by the Railroad Company solely. The Trustees shall be under no obligation to see to the filing, registration or recording of this Second Supplemental Indenture or to the refiling, reregistration or rerecording thereof but the Railroad Company covenants to effect when and as may be required by law the filing, registration or recording and the refiling, reregistration or rerecording hereof. The Corporate Trustee may authenticate and deliver any of the Series of 1970 2¾% Bonds herein provided for without waiting for any such filing, registration, recording or refiling, reregistration or rerecording. In gen-

eral, each and every term and condition contained in Article Thirteen of the Mortgage shall apply to and form a part of this Second Supplemental Indenture with the same force and effect as if the same were herein set forth in full with such omissions, variations and insertions as may be appropriate to make the same conform to this Second Supplemental Indenture.

ARTICLE FOUR.

The Railroad Company, subject to the provisions of Article Twelve of the Mortgage, will at all times maintain and continue its corporate existence and right to carry on business and duly will procure all necessary renewals and extensions thereof.

ARTICLE FIVE.

This Second Supplemental Indenture may be executed simultaneously in several counterparts, each of which so executed shall be deemed to be an original; and such counterparts shall together constitute but one and the same instrument.

ARTICLE SIX.

This is a Second Supplemental Indenture dated as of August 1, 1945, to the Mortgage, executed pursuant to the provisions thereof, and each and every part of this Second Supplemental Indenture and each and every covenant contained herein shall be and become a part of the Mortgage and each of the covenants and obligations of the Railroad Company herein contained shall be, except as herein otherwise provided, subject to the provisions of said Mortgage.

In Witness Whereof, Chicago, Burlington & Quincy Railroad Company, the party hereto of the first part, has caused this Second Supplemental Indenture to be signed in its corporate name and acknowledged or proved by its President or a Vice-President, and its corporate seal to be hereunto affixed and the same to be attested by the signature of its Secretary or an Assistant Secretary; and The First National Bank of the City of New York, as Corporate Trustee, one of the parties hereto of the second part, has caused this Second

Supplemental Indenture to be signed and acknowledged or proved by its President or a Vice-President, and its corporate seal to be hereunto affixed and the same to be attested by the signature of its Cashier or an Assistant Cashier; and Frazier L. Ford, as Individual Trustee, the other of the parties hereto of the second part, has hereunto set his hand and seal, as of the 1st day of August, 1945.

Chicago, Burlington & Quincy Railroad Company,

By J. A. Janney
Vice-President.

Attest: Edith Allen
Secretary.

The First National Bank of the City of New York,

By Henry [illegible]
Vice-President.

Attest: [illegible]
Assistant Cashier.

Frazier L. Ford (L. S.)

Signed, sealed and delivered in presence of:
As to Chicago, Burlington & Quincy Railroad Company:
[illegible]
A. M. Kocisek

As to The First National Bank of the City of New York:
[illegible]
[illegible]

As to Frazier L. Ford:
Justine Thomas
Walter Cantu

[Acknowledgments.]

STATE OF NEW YORK, }
COUNTY OF NEW YORK. } ss.:

I, THOMAS A. COLLINS, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgements and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 14th day of December, 1945, personally appeared before me within said County and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, Henry S. Sturgis and W. E. GERDES, each to me personally known and known to me to be respectively a Vice-President and Assistant Cashier of The First National Bank of the City of New York, one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and executed said instrument as such Vice-President and Assistant Cashier, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and the said Henry S. Sturgis and W. E. GERDES, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said Henry S. Sturgis resides in Cedarhurst N.Y.; and that the said W. E. GERDES resides in New York N.Y.; that said Henry S. Sturgis is a Vice-President and said W. E. GERDES is an Assistant Cashier of The First National Bank of the City of New York, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Henry S. Sturgis and W. E. GERDES, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice-President and Assistant Cashier in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation, and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public in the said County of New York, State of New York, this the day and year in this my certificate first above written.

Thomas A. Collins

THOMAS A. COLLINS, NOTARY PUBLIC, QUEENS CO. CLK'S NO. 369
N. Y. COUNTY CLERK'S NO. 142, REG. NO. 83-C-6
COMMISSION EXPIRES MARCH 30, 1946

My commission expires

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STATE OF MISSOURI, }
COUNTY OF BUCHANAN. } ss.:

I, Margaret Pope, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 15th day of December, 1945, personally appeared before me within the said County and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, FRAZIER L. FORD, to me personally known and known to me to be the individual and the identical person who is described in and who subscribed his name to and who executed the within and foregoing instrument in writing in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said FRAZIER L. FORD duly acknowledged to me in the presence of said witnesses that he signed, sealed, executed and delivered the said instrument freely and voluntarily and as his free and voluntary act and deed for the consideration, objects, uses and purposes therein stated and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand, suscribed my name and affixed my official seal as such Notary Public in said County of Buchanan, State of Missouri, this the day and year in this my certificate first above written.

Margaret Pope

My commission expires July 22, 1949

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.:

I, W. D. McClain, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 14th day of December, 1945, personally appeared before me within said County and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, J. C. James and Edith L. Allen, each to me personally known and known to me to be respectively Vice President and — Secretary of Chicago, Burlington & Quincy Railroad Company, one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and — Secretary respectively in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said J. C. James and Edith L. Allen, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said J. C. James resides in the City of Chicago and State of Illinois, and that the said Edith L. Allen resides in the Village of LaGrange and State of Illinois; that said J. C. James is Vice President and said Edith L. Allen is — Secretary of Chicago, Burlington & Quincy Railroad Company, one of the corporations described in and which exe-

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cuted the within and foregoing instrument in writing; that they, the said J. C. Parmelee and Edith K. Wilson, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that is was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and —— Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of Cook, State of Illinois, this the day and year in this my certificate first above written.

A. D. McLane

Notary Public, Cook County.

My commission expires Mar. 20, 1947

State of Wisconsin } ss.
DEPARTMENT OF STATE }

Received this 18th day of June A. D. 1946 at 9:00 o'clock A.M. and recorded in Vol. 39 of Railroad Mortgages on pages 187-199 incl.

Harold C. Zimmerman
Secretary of State

Executed in 20 Counterparts
Counterpart No 5

Conditional Sale Agreement

DATED AS OF JULY 1, 1946

BETWEEN

FAIRBANKS, MORSE & CO.

AND

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

FOR PURCHASE OF
FIVE 6000 HP DIESEL ELECTRIC PASSENGER LOCOMOTIVES

Agreement and Assignment

DATED AS OF JULY 5, 1946

BETWEEN

FAIRBANKS, MORSE & CO.

AND

THE FIRST NATIONAL BANK OF CHICAGO

THE DUNTHORP-WARREN PRINTING COMPANY, 310 WEST JACKSON, CHICAGO

This Agreement dated as of July 1, 1946, by and between **FAIRBANKS, MORSE & CO.**, a corporation organized and existing under the laws of the State of Illinois, with an office and place of business in the City of Chicago, Illinois (hereinafter sometimes called the "Seller"), as party of the first part; and **CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY**, a corporation organized and existing under the laws of the State of Wisconsin, with principal office and place of business in the City of Chicago, Illinois (hereinafter sometimes referred to as the "Buyer"), as party of the second part;

WITNESSETH THAT:

In consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

(1) *Construction, Sale and Delivery.* The Seller hereby agrees to construct, in accordance with the specifications hereinafter referred to, sell and deliver to the Buyer, and the Buyer hereby agrees to buy from the Seller and to accept delivery as hereinafter provided, and to pay therefor as hereinafter set forth, the following described railroad equipment (hereinafter sometimes referred to as "Equipment"):

Five (5) new, 6000 HP Diesel Electric Passenger Locomotives, bearing Seller's Serial Numbers and Buyer's Road Numbers, as follows:

	"A" Unit Serial No.	"A" Unit Road No.	"B" Unit Serial No.	"B" Unit Road No.	"A" Unit Serial No.	"A" Unit Road No.
(1)	LD-1063	5A	LD-1064	5B	LD-1065	5C
(2)	LD-1066	6A	LD-1067	6B	LD-1068	6C
(3)	LD-1069	7A	LD-1070	7B	LD-1071	7C
(4)	LD-1072	8A	LD-1073	8B	LD-1074	8C
(5)	LD-1075	9A	LD-1076	9B	LD-1077	9C

all as described by Seller's Specification 200 L, with modifications dated June 1, 1946, and supplements thereto requested by Buyer, and Seller's proposal dated March 12, 1946, as supplemented June 1, 1946, and June 18, 1946.

Said Specifications as modified and said supplements thereto, and said proposal and said supplement thereto are, by reference, made a part of this Agreement, as fully as though expressly set forth therein.

The purchase price of said equipment shall be the principal amount of Five Hundred Thirty-five Thousand Dollars ($535,000.00) for each 6000 HP Diesel Electric Passenger Locomotive, delivered on Buyer's tracks, Milwaukee, Wisconsin. Interest shall be paid by the Buyer at the rate of One and Fifty-five Hundredths Per Cent (1.55%) per annum upon the unpaid balances of said principal amounts, and such interest shall be computed, in the case of each locomotive, in the manner set forth in Section 2 of this Agreement.

The Seller shall deliver said locomotives, freight charges prepaid, to the Buyer on the Buyer's tracks at Milwaukee, Wisconsin, from time to time, and whenever any of said locomotives are completed and ready for shipment. The Seller agrees to assume the expense, responsibility and risk of loss in and of the removal of the said locomotives from the Seller's plant at Erie, Pennsylvania, to the place of delivery to the Buyer.

After receipt and inspection of each locomotive by the Buyer or its agents, the Buyer's Chief Mechanical Officer, or his duly authorized representative, shall, if said locomotive meets said specifications, execute in duplicate a certificate of acceptance. The execution of such certificate of acceptance shall be conclusive evidence the locomotive covered conforms with specifications and is acceptable to the Buyer in all details.

In case all of the units of the equipment shall not be delivered as aforesaid on or before January 1, 1947, the parties hereto shall be released from their several obligations under this Agreement, with respect to such units of equipment as shall not have been delivered as aforesaid on or before January 1, 1947.

Seller's obligation as to time of shipment is subject, however, to delays due to accident, fire, flood, explosion, labor troubles, Acts of the Government, including embargoes, priorities and allocations, war and war conditions, delays of carriers, delays or defaults of subcontractors, or delays in receipt of materials, or to any other cause or causes (whether or not of the same kind as herein specifically enumerated) beyond the Seller's reasonable control.

(2) *Amount and Payment of Purchase Price.* Conditional only upon the receipt and acceptance of each locomotive, which may be conclusively presumed from the execution of the Certificate of Acceptance above referred to, the Buyer hereby promises to pay to the Seller, or the assignee thereof, at such place as may be designated by the Seller or its assignee, as the purchase price of said Equipment, the following amounts:

(a) One Hundred Thirty-five Thousand Dollars ($135,000.00) for each 6000 HP Diesel Electric Passenger Locomotive, representing approximately twenty-five per cent (25%) of the purchase price of each such passenger locomotive, shall be paid to the Seller upon presentation of an invoice for such locomotive supported by the Certificate of Acceptance in respect of such locomotive;

(b) On the first of the quarterly payment dates, which are hereby fixed as January 1, April 1, July 1 and October 1 of each year, following the date of delivery to and acceptance by the Buyer of each of the locomotives, interest at the rate of One and Fifty-five Hundredths Per Cent

(1.55%) per annum on the unpaid purchase price of each locomotive from the date of its acceptance to said first quarterly payment date following the date of said acceptance;

(c) Commencing on the second of the quarterly payment dates (January 1, April 1, July 1, or October 1) following the date of delivery to and acceptance by the Buyer of each of the locomotives and continuing for a total of forty (40) consecutive quarterly installment payments, the respective amounts of Ten Thousand, Eight Hundred Fourteen Dollars and Thirty-three Cents ($10,814.33), excepting the fortieth (40th) quarter, when the amount shall be Ten Thousand, Eight Hundred Fourteen Dollars and Sixty-one Cents ($10,814.61) for each 6000 HP Diesel Electric Passenger Locomotive. Each of said forty (40) quarterly installment payments includes both principal and interest at the rate of One and Fifty-five Hundredths Per Cent (1.55%) per annum upon the unpaid balance of the purchase price of each such locomotive, and shall be applicable first to the interest then due, and the balance to principal.

The Buyer further covenants and agrees to pay interest at the rate of 4% per annum upon all such amounts, principal and interest, after the same become due and payable pursuant to the terms and provisions hereof.

All payments provided for in this Agreement shall be made by the Buyer at such place as may be designated by the Seller or its assignee, in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

The Buyer shall have the privilege of prepaying at any time, without the payment of any premium, any sum of the principal in an amount of $25,000.00 or any mul-

tiple thereof, together with interest accumulated to the date of such payment on such sum so prepaid. All such principal sums so prepaid shall be applied with suitable allowance of interest at said rate of 1.55% per annum toward the payment of the last maturing installment or installments due hereunder.

(3) *Title to the Equipment.* The Seller shall, and hereby does, retain the full legal title to and property in, any and all of said Equipment until the Buyer shall have made all of the payments, and shall have kept and performed all of the covenants, in this Agreement provided to be made, kept or performed by the Buyer, notwithstanding the delivery of the Equipment to, and the possession and use thereof by, the Buyer as herein provided.

The Buyer covenants and agrees that it will cause each unit of the Equipment to be kept numbered with the proper road numbers and to be kept plainly marked, on metal plates upon both sides of each unit of the Equipment covered by this Agreement, with the name of the Seller or of the Seller's assignee, as the case may be, followed by the word "Owner" or other appropriate words designated by the Seller, and the Buyer agrees that it will not accept delivery of, or place said Equipment in operation or exercise any control or dominion over any part thereof until said metal plates so marked have been attached on both sides of each unit of said Equipment.

The Buyer shall replace the Equipment or any of it or any parts, at its own cost if the Equipment or any of it or any parts shall be lost or destroyed from any cause whatever during the continuance of this Agreement, with other Equipment of similar type and of a substantially as good

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material and construction as that lost or destroyed. The Buyer will cause any such new Equipment to be marked as above provided and to be numbered with the same road number as the Equipment so replaced. Any and all such replacements of Equipment or any of it and of any parts shall constitute accessions to the Equipment and shall be subject to all of the terms and conditions of this Agreement, as though part of the original Equipment delivered hereunder, and included in the word "Equipment" as used in this Agreement. Title to all such new Equipment shall be taken initially, and shall remain, in the name of the Seller (or if this Agreement shall have been assigned, in the name or names of the assignee or assignees, as the case may be) subject to the provisions hereof.

Except as above provided, the Buyer will not allow the name of any person, association or corporation to be placed on the Equipment or any replacements thereof, as a designation that might be interpreted as a claim of ownership thereof; provided, however, that the Buyer may cause the Equipment to be lettered with appropriate words or marks for convenience of identification of the Buyer's interest therein.

When and only when the Seller has been paid the full purchase price for all Equipment, together with interest and any and all other payments as herein provided, and all of the Buyer's covenants and conditions herein contained have been performed by the Buyer, title to and property in all of the Equipment shall pass to and vest in the Buyer without further transfer or act on the part of the Seller, except that the Seller shall, if so requested by the Buyer so to do, execute and deliver to the Buyer a bill or bills of sale of all of said Equipment, transferring the title to and property in said Equipment to the Buyer

free and clear of all liens and encumbrances created or retained hereby or by any act, default or omission of the Seller, and shall execute for record or for filing in public offices such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Buyer to all of said Equipment.

(4) *Taxes.* The Buyer shall pay promptly all taxes and assessments which may be imposed upon the Equipment or the earnings arising therefrom or the operation thereof, or upon the Seller by reason of its ownership thereof, by any jurisdiction in which the Equipment is operated by the Buyer, and agrees to keep at all times all and every part of the Equipment free and clear of all taxes, assessments, liens and encumbrances, except that the Buyer may, in good faith, appropriately contest any tax or assessment levied upon the Equipment.

(5) *Compliance with Laws, Rules and Regulations.* The Buyer covenants that the Equipment will at all times be maintained, used and operated under and in compliance with all laws and regulations in any jurisdiction to which the Equipment may be subject. The Buyer further covenants that it will comply in all respects with all acts of Congress and with the laws of the United States and of the States and Territories into which its operations involving the Equipment may extend during the term of this Agreement, and with all lawful rules of the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over any of the Equipment, and in the event that said laws or rules require the alteration of any of the Equipment, the Buyer agrees to conform therewith, at its expense, and to maintain the same in proper condition for operation under such laws and rules during the

life of this Agreement; provided, however, that the Buyer may in good faith contest, in any reasonable manner, the application of any such law or rule which does not, in the judgment of Seller, affect the Seller's title in and to the Equipment.

(6) *Servicing, Replacements and Maintenance.* Seller will send a competent person to the point of delivery of the locomotives, to superintend the placing of the same in working condition. Buyer shall provide each such person, without expense to Seller, with all the necessary labor, materials, locomotive supplies and transportation on lines owned or controlled by Buyer.

The Buyer covenants and agrees that it will at all times after the delivery of such equipment maintain and keep said Equipment in good order and repair at its expense, and shall bear the risk, and shall not be released from its obligations hereunder in case of any and all damage, loss or destruction of said Equipment from whatever cause arising.

Seller shall furnish and install at its expense, at its works, or deliver to Buyer at Seller's works, a new part or parts to replace any part or parts in the locomotives which may fail under normal service within one year after delivery and acceptance, by reason of faulty work performed or defective material furnished by Seller; provided that Buyer notifies Seller of the fault when it is first discovered and Seller is accorded an opportunity to verify the same. Seller shall not be liable for any fault or defect in the locomotives, except as in this Section and in said specifications and proposal provided.

(7) *Reports and Inspection.* The Buyer hereby agrees to furnish to the Seller, if requested, once in every year as long as this Agreement shall be in force, an accurate inventory of the Equipment in actual service, the numbers

and the description of such Equipment as may have been destroyed and replaced by other, and the then location of said Equipment. In addition thereto, the Buyer agrees to furnish to the Seller, if requested, once in each year, as long as this Agreement shall remain in force, a report of inspection by the Buyer's Chief Mechanical Officer, or, if the Seller shall so request, by a competent disinterested party, satisfactory to the Seller, certifying that said Equipment has been maintained, and is, in good order and repair.

The Buyer shall promptly and fully inform the Seller of any loss or destruction of any of the Equipment and of any substantial repairs made or being made upon it or any of it. If requested by the Seller, the Buyer shall furnish to the Seller a report of the Buyer's Chief Mechanical Officer, or, if the Seller shall so request, of a competent disinterested party, satisfactory to the Seller, covering the nature and extent of any damage to the Equipment, and the satisfactory repair thereof.

The Seller shall have the right, but shall be under no obligation, to inspect the Equipment at any reasonable time or times during the continuance of this Agreement. The Buyer agrees, in so far as it may legally do so, to supply free transportation over its lines to designated agents of the Seller for the purpose of enabling such agents to reach the point or points where the Equipment is in operation, for the purpose of making such inspection or of assisting and instructing the employees of the Buyer in the proper operation and maintenance of its Equipment.

(8) *Use and Location.* The Buyer agrees that after the delivery of any of the equipment and at all times during the continuance of this Agreement, such Equipment will be kept, maintained and used solely by the Buyer upon the lines of railroad owned and operated by it in the States of Illinois, Indiana, Iowa, Wisconsin, Minnesota, Michigan,

North Dakota, South Dakota, Kansas, Missouri, Nebraska, Montana, Idaho and Washington.

(9) *Prohibition against Liens.* The Buyer hereby agrees to pay or satisfy and discharge any and all sums claimed by any party by, through or under the Buyer and its successors or assigns which, if unpaid, might become a lien or a charge upon the Equipment or any of it, but shall not be required to pay or discharge any such claim as long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner which will not affect the title of the Seller in and to the Equipment.

(10) *Indemnities and Guaranties.* The Buyer hereby agrees to save, indemnify and keep harmless the Seller from and against all losses, damages, injuries, claims and demands whatsoever, regardless of the cause thereof, arising on account of the Equipment or the use or operation thereof. Said covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the purchase price and the conveyance of the Equipment, as provided in Section 3 hereof.

The Buyer will bear the risk, and shall not be released from its obligations hereunder in the event of any damage to, or the destruction or loss of, any or all of the Equipment; provided, however, that the Seller and any successor or successors to its manufacturing property and business shall not, as to any of the Equipment, be relieved from its guaranty covering material and workmanship set forth in Section 6 hereof or in the specifications hereinbefore referred to. Seller for itself and any successor or successors to its manufacturing property and business, also agrees to save, indemnify and keep harmless the Buyer from and against any and all royalties, damages, claims, suits, judgments and costs that may arise

in the use of any patented article on the Equipment at the time of delivery, except with regard to any appliances, devices or materials specified or required by the Buyer and not manufactured by the Seller; provided that the Seller shall not be obligated unless it shall be promptly notified of any action for, or threat or claim of such infringement, actual or alleged, coming to the notice of Buyer and be permitted, at its own expense, to conduct the defense against the same and be given access to such evidence in the possession of Buyer as may be necessary for such defense.

(11) *Assignments by the Seller.* All or any of the rights of the Seller under this Agreement, including the right to receive the payments herein provided to be made by the Buyer, may be assigned by the Seller and reassigned by any assignee at any time and from time to time, provided, however, that no such assignment shall subject any assignee to, or relieve the Seller or the successor or successors to its manufacturing property and business from, any of the obligations of the Seller to construct and deliver the Equipment herein to be delivered in accordance with the specifications, or to respond to its guaranties, warranties and indemnities, contained in Sections 1, 6 and 10 hereof.

Upon any such assignment the assignor shall give written notice to the Buyer, together with a counterpart or conformed copy of such assignment, stating the identity and postoffice address of the assignee, and such assignee shall by virtue of such assignment acquire all of the Seller's right, title and interest in and to the Equipment and each and every part thereof, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Buyer of the notification of any such assignment, all payments thereafter to be made by the

Buyer hereunder shall, to the extent so assigned, be made to the assignee.

In the event that this Agreement is assigned by the Seller as hereinbefore provided, the rights of such assignee to the entire unpaid purchase price, or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Seller or the successors to its manufacturing business in respect of the Equipment or the manufacture, delivery, guaranty or warranty thereof, or in respect of any indemnity herein contained, nor subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Buyer by the Seller or the successors to its manufacturing business. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Buyer against and only against the Seller and the successor or successors to its manufacturing property and business, and shall not be enforceable against any party or parties in whom title to the Equipment or any of it, or the rights of the Seller hereunder, shall vest by reason of any sale, assignment or transfer, or successive sales, assignments or transfers.

In the event of any such sale, transfer or assignment, or successive sales, transfers or assignments by the Seller, of title to any of the Equipment and of the Seller's rights hereunder in respect thereof, the Buyer shall, whenever requested by such vendee, transferee or assignee, change the name plates to be attached on both sides of each unit of the Equipment so as to indicate the title of such vendee, transferee or assignee to such equipment and its succession to the rights of the Seller hereunder, such plates to

bear such words or legend as shall be specified by said vendee, transferee or assignee. The cost of obtaining and attaching the first series of such substituted plates shall be borne by Fairbanks, Morse & Co. The cost of obtaining and attaching plates in connection with any subsequent assignment shall be borne by such subsequent vendee, transferee or assignee.

In the event that this Agreement is assigned by the Seller as hereinbefore provided, the Assignee under its assignment shall, in addition to and without in any manner impairing or limiting its rights, titles, and interests thereunder and hereunder, be free of expenses for collection or other charges and of the amount of any state or federal taxes (other than state and federal income and excess profits taxes) levied or imposed directly upon this Agreement and/or the manufacture of the Equipment covered hereby and/or any sale, payment, shipment, delivery or use under the terms of this Agreement, all of which expenses and taxes shall be assumed and paid by either the Buyer or Fairbanks, Morse & Co., as their respective obligations may be, pursuant to the specifications and proposals referred to in Section (1) hereof or otherwise.

The term "Seller" whenever used in this Agreement means, before any assignment of all or any rights of the Seller hereunder as hereinbefore provided in this Section 11, Fairbanks, Morse & Co., and after any such assignment, the assignee or assignees for the time being of all of such rights.

(12) *Assignments by the Buyer.* The Buyer covenants and agrees that it will not sell, assign, transfer or otherwise dispose of its rights under this Agreement, nor transfer possession of said Equipment to any other firm, person or corporation without first obtaining the written consent of the Seller to such sale, assignment or transfer.

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The Buyer hereby covenants and agrees that it will not pledge, hypothecate or in any way encumber, or permit the encumbrance of, any part or all of said Equipment.

(13) *Defaults and Acceleration.* In the event that any one or more of the following events of default shall occur, to-wit:

(a) The Buyer shall fail to pay in full when due any installment of principal or of interest at the time and in the manner hereinbefore contracted to be paid as provided in Section 2 hereof; or

(b) The Buyer shall fail or refuse to comply with any covenant, agreement, term or provision of this Agreement on its part to be kept and performed;

then at any time after the occurrence of such an event of default, the Seller may, upon written notice to the Buyer, and upon compliance with any legal requirements then in force and applicable to such action by the Seller, declare the entire purchase price of the Equipment, together with the unpaid interest thereon, whether the same shall then have fallen due or not, immediately due and payable, without further demand, and thereafter the entire sum shall carry interest at the rate of 4% per annum upon any portion thereof then overdue, from the date of such default.

The Seller may at its election (and, if before sale or before full performance of this Agreement all costs and expenses of the Seller incidental to any such default and to the enforcement by the Seller of the provisions hereof, and all sums which shall then have become due and payable by the Buyer hereunder, other than such part of said purchase price as shall have become due only because of a declaration under this Section as aforesaid, shall have been paid by the Buyer, and all other existing defaults shall have been remedied, or provision therefor satisfactory to the Seller shall have been made, then and in every such case the Seller shall) waive any such event of

default and its consequences and rescind and annul any such declaration or termination by notice to the Buyer in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such cured default had existed and no such declaration or termination had been made; but no such waiver, rescission or annulment shall limit or affect the Seller's right, upon any other default, or impair any rights or remedies consequent thereon.

(14) *Remedies.* If the Buyer shall make default as hereinabove provided, then at any time after such notice of declaration of default and during the continuance of such default the Seller may, without further notice or demand except to the extent necessary in order to comply with any legal requirements, take or cause to be taken by its agent or agents immediate possession of the Equipment, or any of it, and/or any replacements and improvements, and all present and future attachments and accessories thereof, without liability to return to the Buyer any sums theretofore paid, and free from all claims whatsoever except as hereinafter in this Section 14 expressly provided, and may remove the same from the use and possession of the Buyer and for such purpose may enter upon the Buyer's premises where the Equipment may be located, and may use and employ in connection with such removal, at the expense of the Buyer, any supplies, services and aids, and any available trackage and other facilities or means of the Buyer, without process of law; and the Buyer shall deliver the Equipment, or any of it, with all replacements, improvements, equipment, attachments and accessories thereof, at Buyer's own cost at such place or places on Buyer's railroad as the Seller may reasonably designate and for such purpose move or draw the Equipment in the usual manner and at the customary speed of trains, and in case of such retaking or

delivery the Seller shall have the right to store the same upon the premises of the Buyer without charge until the Seller shall desire to remove the same therefrom. And it is hereby expressly agreed by the Buyer that performance of this Agreement to deliver the Equipment as hereinbefore provided is of the essence of the Agreement between the parties and that, upon application to any court of equity having jurisdiction in the premises, the Seller shall be entitled to a decree against the Buyer requiring specific performance hereof.

If the Buyer shall make default as hereinbefore provided, then at any time thereafter during the continuance of such default, and after declaring the entire purchase price immediately due and payable as hereinbefore provided, the Seller with or without retaking possession thereof may sell the Equipment, or any of it, and any such replacements, improvements, equipment, attachments and accessories, free from any and all claims of the Buyer, or of any other party claiming by, through or under it at law or in equity, at public or private sale and with or without advertisement as the Seller may determine, all subject to and in compliance with any legal requirements then in force and applicable to such sale. To the extent permitted by any such legal requirements, any sale or sales hereunder may be held or conducted at Chicago, Illinois, at such time or times as the Seller may fix (unless the Seller shall, as so permitted, specify a different place or places, in which case the sale or sales shall be held at such place or places and at such time or times as the Seller may specify), in one lot and as an entirety or in separate lots, and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Seller may determine in compliance with any such legal requirements, provided that the Buyer shall be given written notice of such sale

as provided in any such applicable legal requirements, but in any event no less than ten (10) days prior thereto, by telegram or registered mail addressed to the Buyer at Chicago, Illinois. If such sale shall be a private sale permitted by such legal requirements, it shall be subject to the right of the Buyer to purchase or provide a purchaser, within ten (10) days after notice of the proposed sale price, at the same or better price as offered by the intending purchaser. To the extent not prohibited by any legal requirements then in force and applicable to such sale, the Seller may itself bid for and become the purchaser of the Equipment or any of it so offered for sale without accountability to the Buyer (except to the extent of surplus money received as hereinafter provided in the last paragraph of this Section 14), and in payment of such purchase price the Seller shall be entitled to the extent aforesaid to have credited on account thereof all sums due to the Seller by the Buyer hereunder.

Each and every power or remedy hereby specifically given to the Seller shall be in addition to every other power or remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Seller. All such powers and remedies shall be cumulative and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Seller in the exercise of any such power or remedy, and no renewal or extension of any payments due hereunder shall impair any such power or remedy, or shall be construed to be a waiver of any default, or any acquiescence therein.

If the Seller shall exercise any of the powers or remedies conferred upon it hereunder, the Buyer shall have

the right after all sums due hereunder to the Seller shall have been received by it in full, including its proper costs and expenses incident to the collection thereof, to require title to the Equipment, if not previously sold or otherwise disposed of by the Seller pursuant to the provisions hereof, to be transferred and assigned by the Seller to the Buyer free from any further liabilities or obligations to the Seller. If after payment of all proper costs and expenses of the Seller incurred in the enforcement of its remedies hereunder and after applying all sums of money realized by the Seller under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Buyer shall pay the amount of such deficit to the Seller. If after payment of all proper costs and expenses of the Seller incurred in the enforcement of its remedies hereunder and after applying as aforesaid all sums realized by the Seller there shall remain a surplus in the possession of the Seller, such surplus shall be paid to the Buyer.

(15) *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any State, or which by any applicable law of any State would convert this Agreement into any instrument other than an agreement of conditional sale, shall as to such State be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable State law may be waived they are hereby waived by the Buyer to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

(16) *Extension Not a Waiver.* Any extension of time granted by the Seller to the Buyer for the payment of

any sum due under this Agreement, whether that extension be for an intermediate payment or for final payment, shall not be deemed a waiver of the title of the Seller reserved hereunder nor any of its rights and remedies hereunder or otherwise existing.

(17) *Recording.* The Buyer shall cause this Agreement to be filed, registered and recorded wherever required for the proper protection of the Seller's title to the Equipment and any replacement or replacements, and its rights under this Agreement; and the Buyer shall from time to time do and perform any other act, and will execute, acknowledge, deliver, file, register and record any and all further instruments, required by law or reasonably requested by the Seller for the purpose of such protection of its title and rights, or for the purpose of carrying out the intention of this Agreement.

(18) *Payment of Expenses.* The Buyer shall pay all costs, charges and expenses, except the counsel fees of Seller, incident to the preparation, printing, execution, acknowledgment, filing, registering and recording of this Agreement and of the first assignment or assignments by the Seller of title to the Equipment, and of any instrument supplemental hereto or amendatory hereof.

(19) *Execution of Counterparts.* This Agreement may be simultaneously executed in two or more counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart.

(20) *Section Headings.* All section, paragraph or division headings are inserted for convenience only and shall

not affect any construction or interpretation of this Agreement.

(21) *Modification of Agreement.* This Agreement of conditional sale, together with the specifications hereinabove referred to, constitutes the entire Agreement between the Buyer and the Seller with respect to the sale of the Equipment herein referred to. No variation or modification of this Agreement, and no waiver of any of its provisions or conditions, shall be valid unless in writing and signed by duly authorized officers of the Buyer and the Seller.

(22) *Possession and Use of the Equipment by the Buyer.* So long as the Buyer shall not be in default under this Agreement, the Buyer shall be entitled to the possession of the Equipment and to the use thereof upon the lines of railroad aforesaid from and after the delivery of the Equipment by the Seller to the Buyer, but only upon and subject to all terms and conditions of this Agreement.

(23) *Law Governing.* As the Equipment covered by this Agreement may be used in various states which may have conflicting laws as to the rights and obligations of the parties hereunder, it is agreed that, irrespective of the place of execution of this Agreement or of the place of delivery and use of the Equipment, all rights and obligations of the parties hereto to each other under the terms of this Agreement, shall be governed by the laws of the State of Illinois.

IN WITNESS WHEREOF, Fairbanks, Morse & Co. has caused these presents to be executed by its duly elected officers pursuant to lawful resolutions, and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, has caused this instrument to be executed by its duly elected officers pur-

suant to lawful resolutions, all as of the day, month and year first above written.

FAIRBANKS, MORSE & CO.,

By S. F. Neddow

Vice-President.

Attest:

E. J. Sanderson

Asst. Secretary.

Signed, sealed and delivered by Fairbanks, Morse & Co. in the presence of:

Ray Edwards

B. D. Lawler

Attesting Witnesses.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,

By C. H. Buford

Executive Vice-President.

Attest: Jno Bustmeier

Secretary.

Signed, sealed and delivered by Chicago, Milwaukee, St. Paul and Pacific Railroad Company, in the presence of:

Wm Pietz

Ruth E. Hall

Attesting Witnesses.

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STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, Mary Murphy, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements, and hereditaments in said County, DO HEREBY CERTIFY that on the 16th day of August, 1946, personally appeared before me within said County and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, the within named S. T. KIDDOO, and E. T. SANDEEN, to me personally known and known to me to be, respectively, a Vice-President and an Asst. Secretary of Fairbanks, Morse & Co., the corporation described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice-President and Asst. Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said S. T. KIDDOO and E. T. SANDEEN, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that said S. T. KIDDOO resides in Chicago in the State of Illinois, and that said E. T. SANDEEN resides in Oak Park in the State of Illinois; that said S. T. KIDDOO is a Vice-President and said E. T. SANDEEN is an Asst. Secretary of Fairbanks, Morse & Co., the

corporation described in and which executed the within and foregoing instrument in writing; that they, said S. T. KIDDOO, a Vice-President, and E. T. SANDEEN, an Asst. Secretary, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto by authority of the Board of Directors of said corporation; that they and each of them signed their names to, and executed, the foregoing instrument in their respective capacities as a Vice-President and an Asst. Secretary in behalf of said corporation by like authority; that they signed, sealed with the corporate seal, executed and delivered said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and that they severally duly acknowledged said instrument to be the free and voluntary act and deed of said corporation and that said corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public in said County of Cook, State of Illinois, this the day and year in this my certificate first above written.

My commission as such Notary Public Expires Aug 19, 1948

Mary Murphy
Notary Public in and for the State of Illinois, County of Cook.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, R. W. SPANGENBERG, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, DO HEREBY CERTIFY that on the 7th day of August, 1946, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, the within named C. H. BUFORD and T. W. BURTNESS, to me personally known and known to me to be, respectively, Executive Vice-President and Secretary of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the corporation described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Executive Vice-President and Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said C. H. BUFORD and T. W. BURTNESS, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that said C. H. BUFORD resides in Evanston in the State of Illinois, and that said T. W. BURTNESS resides in Oak Park in the State of Illinois; that said C. H. BUFORD is Executive Vice-President and said T. W. BURTNESS is

Secretary of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the corporation described in and which executed the within and foregoing instrument in writing; that they, said C. H. BUFORD Executive Vice-President, and T. W. BURTNESS, Secretary, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto by authority of the Board of Directors of said corporation; that they and each of them signed their names to, and executed, the foregoing instrument in their respective capacities as Executive Vice-President and Secretary in behalf of said corporation by like authority; that they signed, sealed with the corporate seal, executed and delivered said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and that they severally duly acknowledged said instrument to be the free and voluntary act and deed of said corporation and that said corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public in said County of Cook, State of Illinois, this the day and year in this my certificate first above written.

My commission as such Notary Public expires November 12, 1947

R. W. Spangenberg
Notary Public in and for the State of Illinois, County of Cook.

This Agreement and Assignment, dated as of July 5, 1946, by and between **FAIRBANKS, MORSE & CO.**, a corporation of the State of Illinois, with an office and place of business in the City of Chicago, Illinois, (hereinafter sometimes referred to as the "Seller"), as party of the first part, and **THE FIRST NATIONAL BANK OF CHICAGO**, a national banking association duly organized and existing under the laws of the United States of America, with its principal office and place of business in the City of Chicago, Illinois, (hereinafter sometimes referred to as the "Assignee"), as party of the second part;

WITNESSETH THAT:

WHEREAS, the Seller and Chicago, Milwaukee, St. Paul and Pacific Railroad Company (hereinafter sometimes referred to as the "Buyer"), have entered into a Conditional Sale Agreement, dated as of July 1, 1946 (hereinafter sometimes referred to as the "Agreement"), covering the construction and sale by the Seller, and the purchase by the Buyer, on the conditions set forth in said Agreement, of Five (5) new 6000 HP Diesel Electric Passenger Locomotives, bearing Buyer's Road Numbers 5A, 5B, 5C, and 6A, 6B, 6C, and 7A, 7B, 7C, and 8A, 8B, 8C, and 9A, 9B, 9C (hereinafter sometimes referred to as the "Equipment"), all as more particularly described in said Agreement, for an aggregate purchase price of Two Million, Six Hundred Seventy-five Thousand Dollars ($2,675,000.00), payable with interest as provided therein; and

WHEREAS, the Assignee has agreed to purchase the rights of the Seller under said Agreement, in and to the said Equipment and the payments therefor, as provided in said Agreement, and the Seller has agreed to assign the same to the Assignee;

NOW, THEREFORE, for value received, and in consideration of the acceptance of this Assignment by said Assignee, upon the terms and conditions hereinafter set forth, it is agreed:

1. The Seller does hereby sell, assign, transfer and set over unto the Assignee, its successors and assigns, all of the right, title and interest of the Seller under said Agreement in and to said Equipment, and in and to the payments of purchase price and interest thereon to be made by the Buyer, and in and to any sums becoming due under said Agreement (except the right to receive the initial cash payment of One Hundred Thirty-five Thousand Dollars ($135,000.00) for each 6000 HP Diesel Electric Passenger Locomotive, said initial cash payment to be made by the Buyer directly to the Seller), together with all of the rights of the Seller in respect thereof, set forth in said Agreement as applying to the Seller thereunder, as therein defined, but without recourse to the Seller, for or on account of any failure of payment or compliance with any of the terms or provisions of said Agreement on the part of the Buyer; provided, however, that this Assignment shall not subject the Assignee to, or relieve the Seller, or any successor or successors to its manufacturing properties and business, from complying with the obligations of the Seller to construct and deliver the Equipment, as in the Agreement provided, or complying with the provisions of Sections 6 and 10 of said Agreement, or relieve the Buyer from its obligations under Sections 4 and 10 of said Agreement; it being understood and agreed, however, that, notwithstanding this Assignment, or any subsequent assignment pursuant to Section 5 hereof, all said obligations of the Seller to the Buyer, in respect of the Equipment, shall be and remain enforceable by the Buyer, its successors and assigns, against, and only against, the Seller, and any successor or successors to its manu-

facturing properties and business. In furtherance of this Assignment and transfer, the Seller does hereby authorize and empower the Assignee to ask, demand, sue for, collect, receive and enforce payments to be made, and compliance, on the part of the Buyer, with the terms and provisions of said Agreement in respect of said Equipment, but in the name of, and at the expense and liability, and for the sole benefit of the Assignee.

2. From time to time, as each 6000 HP Diesel Electric Passenger Locomotive is delivered to and accepted by the Buyer, the Assignee shall pay, and it hereby covenants and agrees to pay, to the Seller, in lawful money of the United States, the sum of Four Hundred Thousand Dollars ($400,000.00) for such locomotive, so delivered, upon receipt of a duplicate of the Seller's invoice, covering each locomotive so accepted, showing receipt by the Seller of the initial payment hereinabove referred to, and of Certificate of Acceptance signed by the Buyer's Chief Mechanical Officer, or his duly authorized representative, stating that such locomotive covered by such Certificate of Acceptance has been delivered to and accepted by him on behalf of the Buyer as conforming in all respects to the terms of the Agreement, and that, at the time of such delivery, there was attached to each side of each unit of such locomotive, a metal plate indicating the Seller as Owner, it being the intention of the parties to provide, by this Assignment, that as each such locomotive is delivered as in said Agreement provided, on or before January 1, 1947, and is accepted by the Buyer, the Seller shall receive from the Assignee the aforesaid balance of the purchase price. Assignee shall pay to Seller the accrued interest on the aforesaid balance of purchase price, from the date of acceptance of each locomotive to the date of payment by Assignee.

Upon receipt by the Seller from the Assignee of the

balance of the purchase price as aforesaid, the Seller warrants that there will be plainly, permanently and conspicuously placed, fastened and maintained, on each side of each unit of said Equipment, in place of the aforesaid plate indicating the Seller as Owner, a metal plate bearing the following words:

"THE FIRST NATIONAL BANK OF CHICAGO, OWNER BY ASSIGNMENT FROM FAIRBANKS, MORSE & CO., MANUFACTURER AND PRIOR OWNER."

3. It is understood and agreed, that the obligation of the Assignee to pay the purchase price of each 6000 HP Diesel Electric Passenger Locomotive, shall only extend to such locomotives as shall be delivered to and accepted by the Buyer as in said Agreement provided, on or before January 1, 1947, and that the duty of the Assignee to pay the balance of the purchase price of any locomotive not so shipped, delivered and accepted, shall absolutely cease.

4. The Seller represents and warrants to the Assignee, its successors and assigns, that said Agreement was lawfully executed for a valid consideration, that it is a valid and existing contract, and, according to its terms, binding upon the parties thereto.

The Seller covenants and agrees that it will construct said Equipment in full and complete accordance with the Agreement, and that it will deliver the same, upon completion thereof, to the Buyer, free of all liens and encumbrances, and in accordance with the provisions of said Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions of said Agreement, set forth to be performed and complied with by the Seller. The Seller further covenants and agrees that it has good and lawful

right to sell the said Equipment as aforesaid; and that it will warrant and defend the same against the lawful demands of all persons whomsoever, based on claims originating prior to the delivery of said Equipment by the Seller to the Buyer; all subject, however, to the provisions of said Agreement and the rights of the Buyer thereunder.

5. The Assignee agrees not to assign its interest in said Agreement or the title to said Equipment, unless its assignee shall, by the terms of the assignment or otherwise, assume and become bound by such of the provisions of said Agreement as an assignee is required to assume and become bound by under the terms of said Agreement. The Assignee further agrees that it will not transfer or assign its interest in said Agreement or the title to the Equipment, without requiring of the assignee or transferee, an agreement similar to that made by the Assignee in this Section.

6. The rights of the Assignee to the entire unpaid purchase price of said locomotives delivered to and accepted by the Buyer as in said Agreement provided, on or before January 1, 1947, and interest thereon, as well as any other rights as may be so assigned hereunder, shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of Seller, or the successor or successors to its manufacturing properties and business, in respect of the construction or delivery of the Equipment, or under Sections 6 and 10 of said Agreement, nor subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebted-

ness or liability at any time owing to Buyer by Seller, or the successor to its manufacturing business.

7. The Seller agrees to indemnify, save and keep harmless the Assignee from and against any and all royalties, damages, claims, suits, judgments and costs that may arise because of the claim that the use of any article in the construction of the Equipment, and thereon at the time of delivery thereof (except any design or articles specified or required by the Buyer and not manufactured by the Seller), infringes any patent; provided, that the Seller shall not be obligated unless it shall be promptly notified of any action for, or threat or claim of such infringement, actual or alleged, coming to the notice of Assignee and be permitted, at its own expense, to conduct the defense against the same and be given access to such evidence in the possession of Assignee as may be necessary for such defense.

8. This Agreement and Assignment may be simultaneously executed in two or more counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument, which shall be sufficiently evidenced for all purposes by any such original counterpart.

9. It is agreed that, irrespective of the place of execution of this Agreement and Assignment, all rights and obligations hereunder of the parties hereto shall be governed by the laws of the State of Illinois.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement and Assignment to be duly executed by their respective proper officers and their respective seals to be hereunto affixed, duly attested by their respective Secre-

taries or Assistant Secretaries or Cashiers or Assistant Cashiers all as of the day, month and year first herein written.

FAIRBANKS, MORSE & CO.,
By S. J. Vidler
Vice-President.

Attest:
E. T. Saunders
Assistant Secretary.

Signed, sealed and delivered by Fairbanks, Morse & Co. in the presence of:
R. G. Schroeder
B. J. Lawler
Attesting Witnesses.

THE FIRST NATIONAL BANK OF CHICAGO,
By J. E. Buchanan
Vice-President.

Attest:
J. E. Price
Assistant Cashier.

Signed, sealed and delivered by The First National Bank of Chicago, in the presence of:
Frances M. Nickmann
Prairie E. Kleinlercmer
Attesting Witnesses.

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State of Illinois, }
County of Cook. } ss.

I, Mary Murphy, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements, and hereditaments in said County, do hereby certify that on the 19th day of August, 1946, personally appeared before me within said County and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, the within named S. T. KIDDOO and E. T. SANDEEN, to me personally known and known to me to be, respectively, a Vice-President and an Asst. Secretary of Fairbanks, Morse & Co., the corporation described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice-President and Asst. Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said S. T. KIDDOO and E. T. SANDEEN, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that said S. T. KIDDOO resides in Chicago in the State of Illinois, and that said E. T. SANDEEN resides in Oak Park in the State of Illinois; and said S. T. KIDDOO is a Vice-President and said E. T. SANDEEN, is an Asst. Secretary of Fairbanks, Morse & Co., the corpora-

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tion described in and which executed the within and foregoing instrument in writing; that they, said S. T. KIDDOO, a Vice-President, and E. T. SANDEEN, an Asst. Secretary, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto by authority of the Board of Directors of said corporation; that they and each of them signed their names to, and executed, the foregoing instrument in their respective capacities as a Vice-President and an Asst. Secretary in behalf of said corporation by like authority; that they signed, sealed with the corporate seal, executed and delivered said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and that they severally duly acknowledged said instrument to be the free and voluntary act and deed of said corporation and that said corporation executed the same.

In testimony whereof, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public in said County of Cook, State of Illinois, this the day and year in this my certificate first above written.

My commission as such Notary Public expires Aug. 19, 1948

Mary Murphy
Notary Public in and for the State of Illinois, County of Cook

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State of Illinois, }
County of Cook. } ss.

I, Frances Smith, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements, and hereditaments in said County, do hereby certify that on the 26th day of August, 1946, personally appeared before me within said County and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, the within named J. L. Buchanan and J. E. Drick, to me personally known and known to me to be, respectively, a Vice-President and Assistant Cashier of The First National Bank of Chicago, the national banking association described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice-President and Assistant Cashier, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said J. L. Buchanan and J. E. Drick, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that said J. L. Buchanan resides in Chicago in the State of Illinois, and that said J. E. Drick resides in Evanston in the State of Illinois; that said J. L. Buchanan is Vice-President and said J. E. Drick

STATE OF ILLINOIS, }
COOK COUNTY. } ss.

I, MICHAEL J. FLYNN, County Clerk of the County of Cook ...

Frances Smith

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is Assistant Cashier of The First National Bank of Chicago, the national banking association described in and which executed the within and foregoing instrument in writing; that they, said J. L. Buchanan, Vice-President, and J. E. Drick Assistant Cashier, know the corporate seal of said national banking association; that the seal affixed to said instrument as the seal of said national banking association is such corporate seal; that it was so affixed thereto by authority of the Board of Directors of said national banking association; that they and each of them signed their names to, and executed, the foregoing instrument in their respective capacities as Vice-President and Assistant Cashier in behalf of said national banking association by like authority; that they signed, sealed with the corporate seal, executed and delivered said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said national banking association for the consideration, objects, uses and purposes therein stated and set forth; and that they severally duly acknowledged said instrument to be the free and voluntary act and deed of said national banking association and that said national banking association executed the same.

In testimony whereof, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public in said County of Cook, State of Illinois, this the day and year in this my certificate first above written.

My commission as such Notary Public expires May 16, 1948

Frances Smith
Notary Public in and for the State of Illinois, County of Cook.

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 6th day of September A. D. 1946 at 9:00 o'clock A. M. and recorded in Vol. 39 of Railroad Mortgages on pages 200 ET SEQ.
[signature]
Assistant Secretary of State

CONDITIONAL SALE AGREEMENT

BETWEEN

PULLMAN-STANDARD CAR MANUFACTURING COMPANY

AND

NORTHERN PACIFIC RAILWAY COMPANY

For Purchase of

Thirty-three Passenger Cars

DATED AUGUST 30, 1946

CONDITIONAL SALE AGREEMENT

THIS AGREEMENT Made this thirtieth day of August, 1946, between PULLMAN-STANDARD CAR MANUFACTURING COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its principal place of business in the City of Chicago, Illinois (hereinafter called the "Seller"), party of the first part, and NORTHERN PACIFIC RAILWAY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Wisconsin, with its principal office and place of business in the City of St. Paul, Minnesota (hereinafter called the "Buyer"), party of the second part,

WITNESSETH:

That in consideration of the mutual promises, covenants, and agreements hereinafter set forth, the parties do hereby agree as follows:

1. *Construction, Sale and Delivery.*

Seller will build thirty-three lightweight deluxe passenger train cars as described below (hereinafter collectively sometimes called "the cars") and will sell and deliver said cars on completion thereof to Buyer, f. o. b. its rails at St. Paul, Minnesota. Thereupon, Buyer will purchase and accept delivery of said cars subject to each and all the terms and conditions of this contract. Said cars will be constructed in

accordance with Buyer's Specifications No. P-812, dated August 11, 1944, with supplements "A" to "F" inclusive, drawings, sketches, material specifications and standard practices furnished by Buyer to Seller and subsequent changes in design and specifications authorized or directed by Buyer, and are more particularly described as follows:

Number of Units	*Description of the Cars*	*Serial Numbers, both inclusive*
18	Deluxe passenger coaches, Seller's Plan 7510, Estimated total cost per unit, $78,930	500 to 517
10	Deluxe "Day-Nite" coaches, Seller's Plan 7509; Estimated total cost per unit, $81,598	588 to 597
5	Deluxe coach buffet-lounge cars, Seller's Plan 7511; Estimated total cost per unit, $86,982	494 to 498

Seller will deliver the cars from time to time as completed on tracks of the Buyer at St. Paul, Minnesota, freight charges prepaid, but Buyer agrees to assume all risk of loss or damage incident to transportation of the cars from Seller's plant at Chicago, Illinois, to said point of delivery. Seller estimates that all of said cars will be completed and shipped in time for delivery to Buyer on or before December 15, 1946.

Upon the delivery of each of said cars, if it conforms to said specifications, the Buyer agrees to accept the car and cause to be furnished and delivered to the Seller a certificate executed in its name in quadruplicate by such agent or agents as it may designate therefor, stating that said car, specified

by number in such certificate, has been delivered to and accepted on its behalf by such agent or agents. The execution of each such certificate of acceptance shall be conclusive evidence that the car (or cars) covered thereby conforms to specifications and is acceptable to Buyer in all details and is subject to the terms and provisions of this agreement.

2. *Amount and Payment of Purchase Price.*

Buyer will pay to Seller for each of said cars, in the manner hereinafter provided, the price thereof computed in accordance with Seller's written proposal to Buyer dated September 14, 1944, and agreed amendments thereof. The aggregate purchase price for all of said cars, estimated to amount to the sum of $2,671,630, shall be payable by the Buyer to the Seller at the office of its Treasurer at Chicago, Illinois, or at such bank or trust company either in the City of Chicago or New York or elsewhere as Seller may in writing direct, free of expense to Seller for collection or other charges, as follows:

(a) Promptly upon delivery and acceptance of each car, an amount equal to the excess of the estimated purchase price thereof as set forth in Section 1, hereof, over the sum of $63,636.36.

(b) Upon completion of delivery of all the cars, an amount equal to the excess of the purchase price of all of the cars as finally determined in accordance with Seller's written proposal and agreed amendments thereof over the sum of $2,671,630.00.

(c) The sum of $2,100,000, together with interest at the rate of one and one-half per cent (1½%) per annum from September 15, 1946, on the balances thereof from time to time remaining unpaid, in ninety-six (96) equal monthly installments of $23,227.40 each on the fifteenth day of each month commencing October 15, 1946. A schedule of such payments to

be so made by the Buyer showing the amounts and dates of the installment payments, the amount thereof applicable to payment of interest due as of each such payment date and balance of said $2,100,000 remaining unpaid after credit of payment made as of said date is as follows:

SCHEDULE OF PAYMENTS.

Payment No.	Due	Monthly Installment	Interest	Applied on Principal	Balance Due
1.	Oct. 15, 1946	$23,227.40	$2,625.00	$20,602.40	$2,079,397.60
2.	Nov. 15, 1946	23,227.40	2,599.25	20,628.15	2,058,769.45
3.	Dec. 15, 1946	23,227.40	2,573.47	20,653.93	2,038,115.52
4.	Jan. 15, 1947	23,227.40	2,547.65	20,679.75	2,017,435.77
5.	Feb. 15, 1947	23,227.40	2,521.80	20,705.60	1,996,730.17
6.	Mar. 15, 1947	23,227.40	2,495.92	20,731.48	1,975,998.69
7.	Apr. 15, 1947	23,227.40	2,469.99	20,757.41	1,955,241.28
8.	May 15, 1947	23,227.40	2,444.06	20,783.34	1,934,457.94
9.	June 15, 1947	23,227.40	2,418.07	20,809.33	1,913,648.61
10.	July 15, 1947	23,227.40	2,392.06	20,835.34	1,892,813.27
11.	Aug. 15, 1947	23,227.40	2,366.02	20,861.38	1,871,951.89
12.	Sept. 15, 1947	23,227.40	2,339.94	20,887.46	1,851,064.43
13.	Oct. 15, 1947	23,227.40	2,313.83	20,913.57	1,830,150.86
14.	Nov. 15, 1947	23,227.40	2,287.68	20,939.72	1,809,211.14
15.	Dec. 15, 1947	23,227.40	2,261.52	20,965.88	1,788,245.26
16.	Jan. 15, 1948	23,227.40	2,235.31	20,992.09	1,767,253.17
17.	Feb. 15, 1948	23,227.40	2,209.07	21,018.33	1,746,234.84
18.	Mar. 15, 1948	23,227.40	2,182.80	21,044.60	1,725,190.24
19.	Apr. 15, 1948	23,227.40	2,156.48	21,070.92	1,704,119.32
20.	May 15, 1948	23,227.40	2,130.16	21,097.24	1,683,022.08
21.	June 15, 1948	23,227.40	2,103.78	21,123.62	1,661,898.46
22.	July 15, 1948	23,227.40	2,077.38	21,150.02	1,640,748.44
23.	Aug. 15, 1948	23,227.40	2,050.94	21,176.46	1,619,571.98
24.	Sept. 15, 1948	23,227.40	2,024.47	21,202.93	1,598,369.05
25.	Oct. 15, 1948	23,227.40	1,997.96	21,229.44	1,577,139.61
26.	Nov. 15, 1948	23,227.40	1,971.43	21,255.97	1,555,883.64
27.	Dec. 15, 1948	23,227.40	1,944.86	21,282.54	1,534,601.10
28.	Jan. 15, 1949	23,227.40	1,918.25	21,309.15	1,513,291.95
29.	Feb. 15, 1949	23,227.40	1,891.62	21,335.78	1,491,956.17
30.	Mar. 15, 1949	23,227.40	1,864.95	21,362.45	1,470,593.72
31.	Apr. 15, 1949	23,227.40	1,838.25	21,389.15	1,449,204.57
32.	May 15, 1949	23,227.40	1,811.50	21,415.90	1,427,788.67
33.	June 15, 1949	23,227.40	1,784.74	21,442.66	1,406,346.01
34.	July 15, 1949	23,227.40	1,757.94	21,469.46	1,384,876.55
35.	Aug. 15, 1949	23,227.40	1,731.10	21,496.30	1,363,380.25
36.	Sept. 15, 1949	23,227.40	1,704.23	21,523.17	1,341,857.08
37.	Oct. 15, 1949	23,227.40	1,677.32	21,550.08	1,320,307.00
38.	Nov. 15, 1949	23,227.40	1,650.39	21,577.01	1,298,729.99
39.	Dec. 15, 1949	23,227.40	1,623.42	21,603.98	1,277,126.01
40.	Jan. 15, 1950	23,227.40	1,596.41	21,630.99	1,255,495.02
41.	Feb. 15, 1950	23,227.40	1,569.37	21,658.03	1,233,836.99
42.	Mar. 15, 1950	23,227.40	1,542.30	21,685.10	1,212,151.89
43.	Apr. 15, 1950	23,227.40	1,515.20	21,712.20	1,190,439.69
44.	May 15, 1950	23,227.40	1,488.06	21,739.34	1,168,700.35
45.	June 15, 1950	23,227.40	1,460.88	21,766.52	1,146,933.83
46.	July 15, 1950	23,227.40	1,433.67	21,793.73	1,125,140.10
47.	Aug. 15, 1950	23,227.40	1,406.43	21,820.97	1,103,319.13
48.	Sept. 15, 1950	23,227.40	1,379.14	21,848.26	1,081,470.87

Payment No.	Due	Monthly Installment	Interest	Applied on Principal	Balance Due
49.	Oct. 15, 1950	$23,227.40	$1,351.84	$21,875.56	$1,059,595.31
50.	Nov. 15, 1950	23,227.40	1,324.50	21,902.90	1,037,692.41
51.	Dec. 15, 1950	23,227.40	1,297.12	21,930.28	1,015,762.13
52.	Jan. 15, 1951	23,227.40	1,269.71	21,957.69	993,804.44
53.	Feb. 15, 1951	23,227.40	1,242.26	21,985.14	971,819.30
54.	Mar. 15, 1951	23,227.40	1,214.78	22,012.62	949,806.68
55.	Apr. 15, 1951	23,227.40	1,187.26	22,040.14	927,766.54
56.	May 15, 1951	23,227.40	1,159.71	22,067.69	905,698.85
57.	June 15, 1951	23,227.40	1,132.13	22,095.27	883,603.58
58.	July 15, 1951	23,227.40	1,104.51	22,122.89	861,480.69
59.	Aug. 15, 1951	23,227.40	1,076.85	22,150.55	839,330.14
60.	Sept. 15, 1951	23,227.40	1,049.16	22,178.24	817,151.90
61.	Oct. 15, 1951	23,227.40	1,021.44	22,205.96	794,945.94
62.	Nov. 15, 1951	23,227.40	993.68	22,233.72	772,712.22
63.	Dec. 15, 1951	23,227.40	965.89	22,261.51	750,450.71
64.	Jan. 15, 1952	23,227.40	938.06	22,289.34	728,161.37
65.	Feb. 15, 1952	23,227.40	910.20	22,317.20	705,844.17
66.	Mar. 15, 1952	23,227.40	882.32	22,345.08	683,499.09
67.	Apr. 15, 1952	23,227.40	854.37	22,373.03	661,126.06
68.	May 15, 1952	23,227.40	826.41	22,400.99	638,725.07
69.	June 15, 1952	23,227.40	798.42	22,428.98	616,296.09
70.	July 15, 1952	23,227.40	770.38	22,457.02	593,839.07
71.	Aug. 15, 1952	23,227.40	742.31	22,485.09	571,353.98
72.	Sept. 15, 1952	23,227.40	714.20	22,513.20	548,840.78
73.	Oct. 15, 1952	23,227.40	686.05	22,541.35	526,299.43
74.	Nov. 15, 1952	23,227.40	657.88	22,569.52	503,729.91
75.	Dec. 15, 1952	23,227.40	629.67	22,597.73	481,132.18
76.	Jan. 15, 1953	23,227.40	601.42	22,625.98	458,506.20
77.	Feb. 15, 1953	23,227.40	573.14	22,654.26	435,851.94
78.	Mar. 15, 1953	23,227.40	544.82	22,682.58	413,169.36
79.	Apr. 15, 1953	23,227.40	516.47	22,710.93	390,458.43
80.	May 15, 1953	23,227.40	488.08	22,739.32	367,719.11
81.	June 15, 1953	23,227.40	459.65	22,767.75	344,951.36
82.	July 15, 1953	23,227.40	431.19	22,796.21	322,155.15
83.	Aug. 15, 1953	23,227.40	402.70	22,824.70	299,330.45
84.	Sept. 15, 1953	23,227.40	374.17	22,853.23	276,477.22
85.	Oct. 15, 1953	23,227.40	345.60	22,881.80	253,595.42
86.	Nov. 15, 1953	23,227.40	317.00	22,910.40	230,685.02
87.	Dec. 15, 1953	23,227.40	288.36	22,939.04	207,745.98
88.	Jan. 15, 1954	23,227.40	259.69	22,967.71	184,778.27
89.	Feb. 15, 1954	23,227.40	230.98	22,996.42	161,781.85
90.	Mar. 15, 1954	23,227.40	202.23	23,025.17	138,756.68
91.	Apr. 15, 1954	23,227.40	173.45	23,053.95	115,702.73
92.	May 15, 1954	23,227.40	144.63	23,082.77	92,619.96
93.	June 15, 1954	23,227.40	115.78	23,111.62	69,508.34
94.	July 15, 1954	23,227.40	86.89	23,140.51	46,367.83
95.	Aug. 15, 1954	23,227.40	57.96	23,169.44	23,198.39
96.	Sept. 15, 1954	23,227.40	29.01	23,198.39	.....

The obligation of the Buyer to make the payments in accordance with the provisions of this subparagraph (c) of Section 2 of this agreement in the full amount stated, without anticipation, except as in Section 5 hereof provided, shall continue until all installments shall have been paid in accordance with the foregoing table.

All said payments by the Buyer shall be free of expenses to the Seller for collection or other charges and of the amount of any State and/or Federal tax (other than State and/or Federal income and excess profits taxes) levied or imposed upon this agreement and/or upon any sale, payment, shipment or delivery under the terms hereof, all of which expenses and taxes Buyer assumes and agrees to pay in addition to the above mentioned purchase price of said cars, and Buyer shall also pay promptly all taxes and assessments which may be imposed upon the cars or the earnings arising therefrom, or the operation thereof, or upon the Seller by reason of its ownership thereof, by any jurisdiction in which the cars are operated, and agrees to keep at all times the cars free and clear of all taxes, assessments, liens and encumbrances and covenants that the cars will at all times be maintained, used and operated under and in compliance with all laws and regulations in any jurisdiction to which the cars may be subject, but the Buyer shall not be required to pay any such taxes or assessments so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner which in the opinion of the Seller will not affect the title of the Seller in and to the cars.

All payments provided for in this agreement shall be made by the Buyer in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

3. *Title to Cars.*

The Seller shall and hereby does, retain the full legal title to and property in all said cars and each of them until the Buyer shall have made all of the payments and shall have kept and performed all of the covenants in this agreement provided to be made, kept or performed by the Buyer, notwithstanding the delivery of the cars to and possession and use thereof by the Buyer as herein provided, and notwithstanding also that the Buyer may have paid the allocable amounts of the purchase price, howsoever evidenced, in respect of any one or more but less than all of said cars. Any and all replacements of the cars, and of parts thereof, and additions thereto, shall constitute accessions to the cars and shall be subject to all the terms and conditions of this agreement and included in the word "cars" as used in this agreement. When and only when the Seller has been paid in the aforesaid money the full purchase price for said cars, with interest and all other payments as herein provided, and all the Buyer's covenants and conditions herein contained have been performed by the Buyer, title to and property in said cars and each of them shall pass to and vest in the Buyer without further transfer or act on the part of the Seller, except that the Seller shall, if requested by the Buyer so to do, execute and deliver to the Buyer a bill or bills of sale of said cars, transferring the title to and property in said cars and each of them to the Buyer free and clear of all liens and encumbrances whatsoever, and shall execute for record or filing in public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the

buyer to said cars and each of them under the laws of any jurisdiction; *provided, however,* that if the Seller shall have assigned its interest in and to said cars and its rights hereunder pursuant to Section 7 hereof, such assignee of the Seller shall execute and deliver to the buyer a bill of sale conveying each of the cars to the Buyer free of any interest of such assignee and of any liens arising through any action of such assignee.

4. *Compliance with Laws and Rules.*

The Buyer shall comply in all respects with all acts of Congress and with the laws of the United States, and of the states and territories into which its operations involving the cars may extend during the term of this agreement, and with the lawful rules and regulations of the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over said cars or any of them, and, in the event that the said laws, rules or regulations require the alteration of said cars or any of them, the Buyer agrees to conform therewith at its expense and to maintain the said cars in proper condition for operation under such laws and rules during the life of this agreement; *provided, however,* that the Buyer may in good faith contest the application of any such law or rule in any reasonable manner which will not, in the judgment of the Seller, affect title of the Seller in and to the said cars.

5. *Maintenance, Replacements, Marking, Reports, Inspection, and Possession and Use of the Cars.*

At all times as long as this agreement shall be in force, the Buyer shall keep and maintain the cars delivered and accepted hereunder in good working order and proper repair at its own expense and shall make all necessary repairs, renewals, and replacements at its own expense. The Buyer shall cause the same to be kept numbered with its numbers, and shall place and maintain metal plates upon both sides of each car plainly and conspicuously indicating the ownership by the Seller or its assignee as the case may be, and the Buyer agrees that it will not place any of said cars in operation or exercise any control or dominion over the same until said metal plates so marked have been attached on both sides of each such car. The Buyer shall replace said cars, or any of them, at its own cost, if they, or any of them, shall be lost or destroyed from any cause whatever during the continuance of this agreement, with other cars of similar type, and of substantially as good material and construction as that lost or destroyed. The Buyer will cause any such new car or cars to be marked as above provided and to be numbered with the same number as the car so replaced. Title to all such new cars shall be taken in the name of the Seller (or its assignee, as the case may be) and shall be immediately subject to all the terms and conditions of this agreement in all respects as though part of the original cars delivered hereunder. The Buyer, however, shall have the right, instead of replacing any such destroyed car or cars, to pay to the Seller the then unpaid balance assignable pro rata to such car or cars and the amount of such payment, with suitable allowance of interest at the rate of 1½%

per annum, shall be applied on the last installment or installments payable hereunder. The Buyer further agrees to bear the risk of loss or damage to the cars and shall not be released from its obligations hereunder in case of damage to, loss or destruction of said cars or any of them.

The Buyer at its own expense shall keep the cars covered by this agreement insured under its blanket insurance policy, against damage or destruction by fire while on its own line, in the same manner and extent as other of its cars, at all times while this agreement shall be in force. The Buyer shall furnish evidence of such insurance satisfactory to the Seller. In case the Buyer shall fail to keep said cars so insured or furnish evidence of such insurance satisfactory to the Seller, Seller may insure said cars and in this event Buyer shall be obligated to repay Seller the amount of premiums paid therefor with interest thereon at the legal rate from the time of such payment until repaid.

The proceeds of any such insurance shall be payable to the Seller, but shall be paid over to the Buyer when such loss or damage to said cars shall have been restored at the expense of the Buyer as hereinabove provided. Nothing herein stated shall release the Buyer from its obligations hereunder in case of any and all damage, loss, or destruction of said property.

The Buyer further agrees to furnish the Seller, if requested, once in every year as long as this agreement shall be in force, an accurate inventory of the cars in actual service, the numbers of such of them as may have been destroyed and replaced by others, and the location of each car as nearly as may be.

The Buyer shall promptly and fully inform the Seller with regard to any loss or destruction of any of said cars and with

regard to any substantial repairs made or being made upon them or any of them.

In the event of a sale, transfer or assignment, or successive sales, transfers or assignments, by the Seller of title to said cars or any of them and of the Seller's rights hereunder in respect thereof, the Buyer shall, whenever requested by such vendee, transferee or assignee, change the name plates at the expense of the assignee (except that the expense of such change in connection with the first assignment by the Seller of title to the cars shall be paid by the Buyer) to indicate the title of such vendee, transferee or assignee to such cars, and succession to such rights of the Seller hereunder.

Except as above provided, the Buyer will not allow the name of any person, association or corporation to be placed on the said cars or any replacement thereof as a designation that might be interpreted as a claim of ownership thereof; *provided, however,* that the Buyer may cause the cars to be lettered with appropriate words or marks for convenience of identification of the Buyer's interest therein.

The Seller shall have the right, but shall be under no obligation, to inspect the cars at any reasonable time or times during the continuance of this agreement. The Buyer agrees, in so far as it may legally do so, to supply free transportation over its lines to designated agents of the Seller for the purpose of enabling such agents to reach the point or points where the cars are in operation, for the purpose of making such inspection. Except as otherwise consented to in writing by the Seller, during the continuance of this agreement, said cars after acceptance hereunder shall be used only on tracks now or hereafter leased, jointly used, owned or operated by the Buyer or Companies affiliated with

the Buyer, in the States of Illinois, Wisconsin, Minnesota, North Dakota, Montana, Idaho, Washington, and Oregon.

6. *Guaranties and Indemnities.*

The Buyer shall bear the risk, and shall not be released from its obligations hereunder, in the event of any damage to, or destruction or loss of, said cars, or any of them; *provided, however,* that the Manufacturer, and any successor or successors to its manufacturing property and business, shall not as to any of the cars be relieved from its guaranty covering material and workmanship set forth herein or in its written proposal dated September 14, 1944, or in the specifications therefor. The Manufacturer, for itself and any successor or successors to its manufacturing property and business, also agrees, as part of said guaranty, to save, indemnify and keep harmless the Buyer from and against any and all royalties, damages, claims, suits, judgments and costs that may arise from the use of any patented article on any of the cars at the time of delivery, except with regard to any appliances, devices or materials specified by the Buyer.

The Buyer agrees, after delivery and acceptance of each car, to save, indemnify and keep harmless the Seller from and against all losses, liabilities, damages, injuries, claims and demands whatsoever, regardless of the cause thereof, arising on account of such car, or the use or operation thereof. Said covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the purchase price and conveyance of the cars as provided in Section 3 hereof.

The Buyer shall pay or satisfy and discharge any sum claimed by any party from the Buyer, its successors and

assigns, which if unpaid might become a lien or a charge upon the cars or any of them, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner which will not, in the opinion of the Seller, affect the title of the Seller in and to the cars.

7. *Assignments by the Seller and the Buyer.*

All or any of the rights of the Seller under this agreement may be assigned by the Seller and reassigned by any assignee, at any time, and from time to time, subject in any case to the obligations of the Seller under this agreement, except Manufacturer's obligations of guaranty and indemnity referred to in Section 6 hereof, its obligations to replace defective workmanship and material, and its obligations to construct and deliver said cars as hereinbefore provided, it being understood and agreed that no such assignment shall pass to such assignee, or in any way affect or modify, said obligations of the manufacturer.

Upon any such assignment, the assignor shall give written notice to the Buyer, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire, subject to the provisions of this agreement, all of the Seller's right, title and interest in and to said cars or any of them, and such of the Seller's rights and obligations under this agreement, as shall be specified in each such assignment from time to time. From and after the receipt by the Buyer of the notification of any such assignment, all payments thereafter to be made by the Buyer here-

under shall, to the extent so assigned, be made to the assignee.

For every purpose of this agreement, unless the context or some provision hereof requires some other meaning: (a) the term "Seller" whenever used in this agreement means, before any assignment of all or any rights of the Seller hereunder as hereinbefore provided in this section, Pullman-Standard Car Manufacturing Company, and, after any such assignment, any assignee for the time being of all rights hereunder, or, in the event of any assignment of any less than all rights hereunder, both any assignee for the time being of such particular assigned rights as regards such rights, and also his assignor as regards any rights hereunder not assigned, in either case such assignment being by assignment or successive assignments as hereinbefore provided in this section, and any such assignee shall have the same rights and (excepting the guaranty referred to in Section 6, its obligations to replace defective workmanship and material, and the obligation to manufacture and deliver the cars as aforesaid) shall be subject to the same obligations with respect to the subject matter of the assignment as Seller; and (b) the term "Manufacturer" whenever used in this agreement means, both before and after any such assignment, the party hereto of the first part, and any successor or successors for the time being to its manufacturing property and business, but, as regards any of its or their guaranty or indemnity obligation or obligations to manufacture and deliver the cars hereunder or replace any defective workmanship or material therein as aforesaid, does not (and shall not be interpreted to) include or mean any assignee of all or any rights hereunder by assignment or successive assignments as hereinbefore provided in this section.

The Buyer agrees that it will not transfer, assign or otherwise dispose of any of its rights or obligations under this agreement at any time without the written consent of the Seller or each assignee at such time of any of the Seller's rights, titles and interests hereunder.

8. *Buyer's Counterclaims.*

In the event that this agreement is assigned by the Seller, as provided in Section 7 hereof, the rights of any party who may succeed to the Seller hereunder by any sale, assignment or transfer, or successive sales, assignments or transfers, of title to the cars or any of them, together with all or any part of the rights of the Seller under this agreement, shall not be subject to any set-off or counterclaim whatsoever arising out of a breach of warranty or any other obligation in respect of the cars by the manufacturer, or to any other defense, set-off or counterclaim, and all such obligations in respect of the cars and any of them shall be and remain enforceable by the Buyer, and by its successors and assigns, against and only against the Manufacturer, and shall not be enforceable against any party or parties in whom title to the cars or any of them and all or any part of the rights of the Seller hereunder shall vest by sale, assignment or transfer, or successive sales, assignments or transfers.

9. *Defaults and Remedies.*

(a) In case the Buyer shall make default in the payment of any installment of the purchase price as herein provided, for more than twenty (20) days after the same shall become payable, or shall be in default under the pro-

visions of Section 10 hereof: or shall fail or refuse to comply with any other of the terms and covenants in this agreement on its part to be kept and performed, or to make provisions satisfactory to the Seller for such compliance for more than thirty (30) days after notice in writing thereof to the Buyer, then, in any such case (herein sometimes called "events of default") at any time thereafter during the continuance of such event of default the Seller may, without further notice, or demand, except to the extent necessary in order to comply with any mandatory legal requirements then in force and applicable to such action by the Seller, declare the entire purchase price of said cars, howsoever evidenced, whether the same shall then have fallen due or not, immediately due and payable, without further demand, together with interest at the legal rate upon any portion thereof then overdue, from the date of such default.

The Seller may at its election waive (and, if before sale or before full performance of this agreement all costs and expenses, including attorneys' fees, of the Seller incidental to any such default and to the enforcement by the Seller of the provisions hereof, and all sums which shall then have become due and payable by the Buyer hereunder other than such part of said purchase price howsoever evidenced as shall have become due only because of a declaration under this section as aforesaid, shall have been paid by the Buyer, and all other existing defaults shall have been remedied, or provision therefor satisfactory to the Seller shall have been made, then and in every such case the Seller shall waive) any such event of default and its consequences and rescind and annul any such declaration or termination by notice to the Buyer in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no

such cured default had existed hereunder and no such declaration or termination had been made; but no such waiver, rescission or annulment shall limit or affect the Seller's right, upon any other default, to declare said purchase price due as aforesaid, or extend to or affect any other default, or impair any rights or remedies consequent thereon.

(b) If the Buyer shall make default as hereinabove provided, then at any time thereafter during the continuance of such default the Seller may, without further notice or demand except to the extent necessary in order to comply with any mandatory legal requirements, take or cause to be taken by its agent or agents immediate possession of the said cars, or any of them, and/or any replacements, improvements, and all present and future attachments and accessories thereof, without liability to return to the Buyer any sums theretofore paid, and free from all claims whatsoever except as hereinafter in this Section 9 expressly provided, and may remove the same from the use and possession of the Buyer, or of any other party claiming by, through or under it, and for such purpose may enter upon the premises where the cars or any of them may be located, and may use and employ in connection with such removal any supplies, services and aids, and any available trackage and other facilities or means of the Buyer, without process of law; and the Buyer shall deliver the cars, or any of them, with all replacements, improvements, equipment, attachments and accessories thereof, at its own cost at such place or places on its railroad as the Seller may reasonably designate and for such purpose, move or draw the cars in the usual manner and at the customary speed, and in case of such retaking or delivery the Seller shall have the right to store the same upon the premises of

the Buyer without charge until the Seller shall desire to remove the same therefrom. And it is hereby expressly agreed by the Buyer that performance of this agreement to deliver the cars as hereinbefore provided is of the essence of the agreement between the parties and that, upon application to any court of equity having jurisdiction in the premises, the Seller shall be entitled to a decree against the Buyer, or any other party claiming by, through or under it, requiring specific performance hereof.

(c) If the Buyer shall make default as hereinbefore provided, then at any time thereafter during the continuance of such default, and after declaring the entire purchase price immediately due and payable as hereinbefore provided, the Seller with or without retaking possession thereof may sell said cars or any of them, and any such replacements, improvements, equipment, attachments and accessories, free from any and all claims of the Buyer, or of any other party claiming by, through or under it at law or in equity, at public or private sale and with or without advertisement as the Seller may determine, all subject to and in compliance with any mandatory legal requirements then in force and applicable to such sale. To the extent permitted by any such legal requirements, any sale or sales hereunder may be held or conducted at Chicago, Illinois, at such time or times as the Seller may fix (unless the Seller shall, as so permitted, specify a different place or places, in which case the sale or sales shall be held at such place or places and at such time or times as the Seller may specify), in one lot and as an entirety or in separate lots, and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Seller may determine in compliance with

any such legal requirements, provided that the Buyer shall be given written notice of such sale at least ten (10) days prior thereto, by telegram or registered mail addressed to the Buyer at 176 East Fifth Street, St. Paul 1, Minnesota, or such other notice, if any, as may be necessary to comply with any mandatory legal requirements. If such sale shall be a private sale permitted by such legal requirements, it shall be subject to the right of the Buyer to purchase or provide a purchaser within ten (10) days after notice of the proposed sale price, at the same or a better price than offered by the intending purchaser. To the extent not prohibited by any legal requirements then in force and applicable to such sale, the Seller may itself bid for and become the purchaser of the cars or any of them so offered for sale without accountability to the Buyer (except to the extent of surplus money received as hereinafter provided in the last paragraph of this Section 9), and in payment of such purchase price the Seller shall be entitled to the extent aforesaid to have credited on account thereof all sums due to the Seller from the Buyer hereunder.

(d) Each and every power or remedy hereby specifically given to the Seller shall be in addition to every other power or remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Seller. All such powers and remedies shall be cumulative and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Seller in the exercise of any such power or remedy, and no renewal or extension of any payments due thereunder, shall impair any such power or rem-

edy, or shall be construed to be a waiver of any defaults, or any acquiesence therein.

(e) The Buyer hereby waives, to the fullest extent that they may be waived, all statutory requirements for notice of acceleration, or for notice of the Seller's intention to take possession of the cars, or for notice of any such sale, as well as all such requirements as to the time, place and terms of any such sale. The Buyer agrees that the rights granted herein shall constitute its only rights in and to said cars excepting only such additional rights as the Buyer may have under applicable legal provisions, the benefit of which may not be waived.

(f) If the Seller shall exercise any of the powers or remedies conferred upon it hereunder, the Buyer shall have the right after all sums due hereunder to the Seller shall have been received by it in full, including its proper costs, expenses, and attorney's fees, incident to the collection thereof (which costs, expenses and attorney's fees shall constitute an additional obligation of the Buyer hereunder) to require title to the cars, if not previously sold or otherwise disposed of by the Seller pursuant to the provisions hereof, to be transferred and assigned by the Seller to the Buyer free from any further liability. If after applying all sums of money realized by the Seller under the remedies herein provided, there shall remain any amount due to it under the provisions of this agreement, the Buyer shall pay the amount of such deficit to the Seller. If after applying as aforesaid all sums realized by the Seller there shall remain a surplus in the possession of the Seller, such surplus shall be paid to the Buyer.

10. *Reorganization Proceedings and Transfers of the Buyer's Interest, a Default.*

The occurrence of any one or more of the following events, to-wit:

(a) the filing by the Buyer of any petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended and failure on the part of the Trustee or Trustees to affirm this agreement within 30 days of the date of his or their appointment; or

(b) the filing by the creditors of the Buyer of any petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, provided the court shall approve such petition as properly filed and the Trustee or Trustees shall fail to affirm this agreement within 30 days of the date of his or their appointment; or

(c) the commencement of any proceedings by or against the Buyer for any relief under any other bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions, or extension; or

(d) the transfer, or attempted transfer, by the Buyer of its interest in or under this agreement without the consent of the Seller; or

(e) the involuntary transfer of the Buyer's interest in or under this agreement effected either by bankruptcy or by the appointment of a receiver or trustee or by execution or by any judicial or administrative decree or process or otherwise, except as authorized

by Section 7 hereof, and except the appointment of a receiver or trustee and the adoption by the latter, duly authorized by the court of his appointment, of this agreement, and his agreement to be bound by the terms and obligations hereof within 30 days from the date of his appointment;

shall be deemed a breach of this agreement and a default hereunder; whereupon the Seller may elect to declare the entire purchase price immediately due and payable, as hereinbefore provided, and may thereupon forthwith take possession of said cars, or any of them, and exercise and enforce any and all other remedies as provided by Section 9 hereof.

11. *Applicable State Laws.*

Any provision of this agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this agreement into any instrument other than a conditional sale agreement shall, as to such state, be ineffective, without modifying the remaining provisions of this agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Buyer to the full extent permitted by law to the end that this agreement shall be deemed to be a conditional sale agreement and enforced as such.

12. *Extension Not a Waiver.*

Any extension of time granted by the Seller to the Buyer for the payment of any sum due under this agreement, shall not be deemed a waiver of the title of the Seller re-

served hereunder nor of any of its rights and remedies hereunder or otherwise existing.

13. *Recording.*

The Buyer shall cause this agreement to be filed, registered and/or recorded wherever required for the proper protection (to the satisfaction of counsel for Seller) of Seller's or Assignee's title to the cars or any replacement or replacements thereof, and of its or Assignee's rights under the agreement; and the Buyer shall from time to time do and perform any other act, and will execute, acknowledge, deliver, file, register and record any and all further instruments required by law or reasonably requested for the purpose of such protection of Seller's or Assignee's title and rights, or for the purpose of carrying out the intention of this agreement.

14. *Payment of Expenses.*

The Buyer shall pay all costs, charges and expenses (except the counsel fees of the Seller), incident to preparation, execution, acknowledgment, filing, registering and/or recording of this agreement and of the first assignment or assignments by the Seller of title to said cars, and of any instrument supplemental hereto or amendatory hereof.

15. *Execution of Counterparts.*

This agreement may be simultaneously executed in two or more counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall

constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart.

16. *Section Headings.*

All section, paragraph or division headings are inserted for convenience only and shall not affect any construction or interpretation of this agreement.

17. *Modification of Agreement.*

This agreement of conditional sale constitutes the entire agreement between the Buyer and the Seller with respect to the sale of the cars herein referred to. No variation or modification of this agreement, and no waiver of any of its provisions or conditions, shall be valid unless in writing and signed by duly authorized officers of the Buyer and the Seller.

18. *Possession and Use of the Cars by the Buyer.*

So long as the Buyer shall not be in default under this agreement, the Buyer shall be entitled to the possession of the cars and to the use thereof as aforesaid from and after the delivery of the cars by the Seller to the Buyer, but only upon and subject to all terms and conditions of this agreement.

19. *Successors and Assigns.*

Subject to the definitions contained in Section 7 hereof, and to the provisions hereinbefore contained regarding re-

organization under Section 77 of the Bankruptcy Act and other proceedings, and regarding transfers and assignments, voluntary and involuntary, by the Buyer, and regarding the continuing obligations of the Manufacturer after its assignment of any or all of the cars and of any or all of its rights hereunder, this agreement shall bind and inure to the benefit of the successors and assigns of the parties hereto, as well as the said parties themselves.

20. *Law Governing.*

It is agreed that all rights and obligations hereunder shall be governed by the laws of the State of Minnesota.

IN WITNESS WHEREOF the parties hereto, pursuant to due corporate authority, have caused this agreement to be executed in their respective corporate names by their respective officers thereunto duly authorized and their respec-

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tive corporate seals to be hereunto affixed, duly attested, as of the day and year first above written.

PULLMAN-STANDARD CAR MANUFACTURING COMPANY, Seller

By J. W. Scallan
Vice President

Attest:

J. A. Knowlton
~~Assistant~~ Secretary

Signed, sealed and delivered as to Pullman-standard Car Manufacturing Company, in the presence of:

R. J. Nyman

Ida Meetna

NORTHERN PACIFIC RAILWAY COMPANY, Buyer

By J. M. Standish
Vice President

Attest:

Marsh McLeod
Assistant Secretary

Signed, sealed and delivered as to Northern Pacific Railway Company, in the presence of:

A. Ramsdale

A. B. Knight

STATE OF ILLINOIS,
County of Cook.—ss.

I, CHAS. F. WALTERS, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, DO HEREBY CERTIFY that on this 10th day of September, 1946, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, J. W. SCALLAN and J. A. KNOWLTON each to me personally known and known to me to be respectively a Vice President and the Secretary of Pullman-Standard Car Manufacturing Company, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Secretary respectively in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said J. W. SCALLAN and J. A. KNOWLTON being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said J. W. SCALLAN resides in the City of Wilmette in the State of Illinois and that the said J. A. KNOWLTON resides in the City of Oak Park in the State of Illinois; that the said J. W. SCALLAN is a Vice President and said J. A. KNOWLTON is the

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Secretary of Pullman-Standard Car Manufacturing Company, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said J. W. SCALLAN and J. A. KNOWLTON know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Secretary, in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such notary public, in the said County of Cook, State of Illinois, this the day and year in this my certificate first above written.

Chas. F. Walters

CHAS. F. WALTERS
Notary Public

(NOTARIAL SEAL)

My commission expires March 29, 1949.

STATE OF MINNESOTA,
County of Ramsey.—ss.

I, O. T. C. PETERSON a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgements and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, DO HEREBY CERTIFY that on this 6th day of September 1946, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, B. W. SCANDRETT and HUGH MCLEOD each to me personally known and known to me to be respectively a Vice President and Assistant Secretary of Northern Pacific Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary respectively in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said B. W. SCANDRETT and HUGH MCLEOD being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said B. W. SCANDRETT resides in the City of St. Paul in the State of Minnesota and that the said HUGH MCLEOD resides in the City of St. Paul in the State of Minnesota; that said B. W. SCANDRETT is a Vice President and said HUGH MCLEOD is Assistant Secretary of Northern Pacific Railway Company, one of the corporations described in and which

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executed the within and foregoing instrument in writing; that they, the said B. W. SCANDRETT and HUGH MCLEOD know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such notary public, in the said County of Ramsey, State of Minnesota, this the day and year in this my certificate first above written.

O. T. C. PETERSON
Notary Public, Ramsey County, Minn.
My commission expires Oct. 21-1949

(NOTARIAL SEAL)

State of Wisconsin } ss.
DEPARTMENT OF STATE

Received this 16th day of September A. D. 1946 at 11:00 o'clock A. M. and recorded in Vol. 39 of Railroad Mortgages on page 219 ET SEQ.

Assistant Secretary of State

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ASSIGNMENT AGREEMENT

DATED AS OF AUGUST 30, 1946

BETWEEN

PULLMAN-STANDARD CAR MANUFACTURING COMPANY

AND

SEATTLE-FIRST NATIONAL BANK

ASSIGNMENT AGREEMENT dated as of August 30, 1946, between **PULLMAN-STANDARD CAR MANUFACTURING COMPANY**, a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its principal place of business in the City of Chicago, Illinois (hereinafter referred to as the "Manufacturer"), party of the first part, and SEATTLE-FIRST NATIONAL BANK, a National Bank, (hereinafter referred to as the "Assignee"), party of the second part;

WHEREAS the Manufacturer and Northern Pacific Railway Company (hereinafter referred to as the "Railway") have entered into a Conditional Sale Agreement dated August 30, 1946, covering construction, sale and delivery of thirty-three light-weight deluxe passenger train cars, more particularly described as follows:

Number of Units	*Description of the Cars*	*Serial Numbers, both inclusive*
18	Deluxe passenger coaches, Seller's Plan 7510, Estimated total cost per unit, $78,930	500 to 517
10	Deluxe "Day-Nite" coaches, Seller's Plan 7509; Estimated total cost per unit, $81,598	588 to 597
5	Deluxe coach buffet-lounge cars, Seller's Plan 7511; Estimated total cost per unit, $86,982	494 to 498

EXCON 235

for the aggregate price of approximately $2,671,630, determined on the basis of the estimated costs per unit above set forth, payable in installments, with interest, as therein provided; Now, Therefore:

KNOW ALL MEN BY THESE PRESENTS, that in consideration of the sum of One Dollar ($1.00) in hand paid by the Assignee, and of other good and valuable consideration, the receipt of which by the Manufacturer from the Assignee is hereby acknowledged, and of the mutual covenants herein contained, the parties hereto do hereby covenant and agree as follows, to-wit:

I.

The Manufacturer hereby sells, assigns, transfers and sets over unto the Assignee all sums now due, owing or payable, or which may hereafter be or become due, owing or payable, under or pursuant to said Conditional Sale Agreement, as well as all the right, title and interest of the Manufacturer in and to each of said cars from and after the date of delivery and acceptance thereof, together with all the rights in respect thereof set forth in the above mentioned Conditional Sale Agreement as applied to the Seller thereunder as therein defined, without any recourse, however, against the Manufacturer for or on account of the failure of the Railway to make any of the payments provided for therein, or otherwise to comply with any of the provisions of said Conditional Sale Agreement; *provided, however*, that the assignment shall not pass to the Assignee the right to receive any of the payments to be made under subparagraphs (a) and (b) of Section 2; and provided, further, that this assignment shall not pass or in any way affect or modify the liability of the

Manufacturer or any successor or successors to its manufacturing property and business in respect of its guaranty or indemnity obligations, its obligation to replace defective workmanship or materials covered by warranty, and its obligation to manufacture and deliver said cars, it being understood and agreed that notwithstanding this assignment, all obligations of the Manufacturer to the Railway in respect of said cars shall be and remain enforceable by the Railway, its successors and assigns, against and against only the Manufacturer and any successor or successors to all or substantially all of its property and business as in said Conditional Sale Agreement provided. Without hereby limiting the generality of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Assignee to sue for, collect, receive and enforce in the name of and as attorney hereby irrevocably constituted for the Manufacturer, but at the expense and liability and for the sole benefit of the Assignee (against which expense and liability the Assignee hereby agrees to hold harmless and to indemnify the Manufacturer) with full power to substitute any one or more persons with like power or in the name of the Assignee, all sums payable by the Railway, and hereby assigned, and all other covenants, agreements, obligations and undertakings of the Railway under said Conditional Sale Agreement in respect of the cars described therein.

In consideration of the aforementioned assignment, the Assignee further agrees to pay to the Manufacturer promptly upon receipt of an executed counterpart of the acceptance in respect of the delivery of each passenger car under the terms of said Conditional Sale Agreement the sum of Sixty-three Thousand Six Hundred Thirty-six and Thirty-six Hundredths Dollars ($63,636.36), so that the entire princi-

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pal amounts which the Assignee will pay to the Manufacturer hereunder will be Two Million One Hundred Thousand Dollars ($2,100,000).

II.

The Manufacturer covenants and agrees with the Assignee that the Manufacturer is the lawful owner, free from all liens and encumbrances, of the rights under said Conditional Sale Agreement sold, assigned, transferred and set over, or intended to be sold, assigned, transferred and set over, to the Assignee by this Assignment Agreement; that the Manufacturer will be the lawful owner of each car at the time of its delivery under the Conditional Sale Agreement; that each of said cars at the time of delivery under said Conditional Sale Agreement will be free from all liens or encumbrances; that the Manufacturer has, and will continue to have, good and lawful right to sell the same as aforesaid; and that the Manufacturer will warrant and defend the same against the lawful demands of all persons whomsoever based on claims originating prior to the delivery of the said cars by the Manufacturer to the Railway; all subject, however, to the provisions of the aforesaid Conditional Sale Agreement, and the rights of the Railway thereunder.

III.

The Manufacturer covenants and agrees with the Assignee that, in any suit or action brought by the Assignee under said Conditional Sale Agreement for any installment of the purchase price, the Manufacturer will save, indemnify and keep harmless the Assignee from and against all expense,

loss or damage suffered by reason of any defense, set-off or counterclaim of the Railway arising out of a breach by the Manufacturer of any of the Manufacturer's obligations respecting any of said cars under the terms and conditions of said Conditional Sale Agreement; provided, the Manufacturer is given due notice of such defense, set-off or counterclaim, and reasonable opportunity to defend against the same. The Manufacturer agrees to save, indemnify and keep harmless the Assignee from and against any and all royalties, damages, claims, suits, judgments and costs that may arise from the use of any patented article, except with regard to any appliances, devices or materials specified by the Railway.

IV.

As further assurance, the Manufacturer agrees that it will execute, acknowledge and deliver any and all further instruments, including any further assignments, required by law or reasonably requested by the Assignee, for the purpose of preservation of the rights, title, interests and benefits of the Assignee hereunder, including the rights hereby assigned to receive payments under said Conditional Sale Agreement, or for the purpose of carrying out the intention of this agreement.

V.

All rights and obligations hereunder shall be governed by the laws of the State of Washington.

This agreement may be simultaneously executed in two (2) or more counterparts, each of which so executed shall

be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced for all purposes by any such original counterpart.

IN WITNESS WHEREOF the parties hereto, pursuant to due corporate authority, have caused this Assignment Agreement to be executed in their respective corporate names by their respective officers thereunto duly authorized, and

their respective corporate seals to be hereunto affixed, duly attested, as of the day and year first above written.

PULLMAN-STANDARD CAR MANUFACTURING COMPANY,

By J. W. Kellen
Vice President

Attest:

J. A. Thornton
Asst. Secretary

Signed, sealed and delivered as to Pullman-Standard Car Manufacturing Company, in the presence of:

R. J. Nyman

Peter Meekma

SEATTLE-FIRST NATIONAL BANK,

By
Vice President

Attest:

Assistant Cashier.

Signed, sealed and delivered as to SEATTLE-FIRST NATIONAL BANK, in the presence of:

W. W. Brown

STATE OF ILLINOIS,
County of Cook.—ss.

I, CHAS. F. WALTERS, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of land, tenements and hereditaments in said County, DO HEREBY CERTIFY that on this 10th day of September, 1946, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, J. W. SCALLAN and J. A. KNOWLTON each to me personally known and known to me to be respectively a Vice President and the Secretary of Pullman-Standard Car Manufacturing Company, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Secretary respectively in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said J. W. SCALLAN and J. A. KNOWLTON being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said J. W. SCALLAN resides in the City of Wilmette in the State of Illinois, and that the said J. A. KNOWLTON resides in the City of Oak Park in the State of Illinois; that said J. W. SCALLAN is a Vice President and said J. A. KNOWLTON is the Secretary of Pullman-Standard Car Manufacturing Company, one of the corporations described in and which executed the within and foregoing instrument in writing;

that they, the said J. W. SCALLAN and J. A. KNOWLTON know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such notary public, in the said County of Cook, State of Illinois, this the day and year in this my certificate first above written.

Chas. F. Walters
.....
Notary Public

(NOTARIAL SEAL)
My commission expires March 29, 1949.

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STATE OF WASHINGTON,
County of King.—ss.

I, the undersigned a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of land, tenements and hereditaments in said County, DO HEREBY CERTIFY that on this 14th day of September, 1946, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, F. E. JEROME and W. W. WOODWARD, each to me personally known and known to me to be respectively a Vice President and an Assistant Cashier of Seattle-First National Bank, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Cashier respectively in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said F. E. JEROME and W. W. WOODWARD being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said F. E. JEROME resides in the City of Seattle in the State of Washington and that the said W. W. WOODWARD resides in the City of Seattle in the State of Washington; that said F. E. JEROME is a Vice President and said W. W. WOODWARD is an Assistant Cashier of Seattle-First National Bank, one of the corporations described in and which executed the within and foregoing instrument in

writing; that they, the said F. E. JEROME and W. W. WOODWARD know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Cashier in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such notary public, in the said County of King, State of Washington, this the day and year in this my certificate first above written.

Earl H. Jerome
.....
Notary Public

My commission expires
(NOTARIAL SEAL)

Notary Public in and for the State of Washington, residing at Seattle. My commission expires July 27, 1947.

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 20th day of September A. D. 19 46 at 11:20 o'clock A.M. and recorded in Vol. 39 of Railroad Mortgages on pages 235 ET SEQ.
Robert C. Zimmerman
Assistant Secretary of State

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DULUTH, MISSABE AND IRON RANGE
RAILWAY COMPANY

AND

THE FIRST NATIONAL BANK OF THE
CITY OF NEW YORK,

Trustee

SUPPLEMENTAL INDENTURE

Dated September 19, 1946

(Supplemental to First Mortgage dated October 1, 1937 and Supplemental Indenture dated March 28, 1938)

APPOINTING

CHARLES C. HUBBELL, JR. as Successor

to

Walter F. Kearns, as Co-Trustee of mortgaged property situated in Wisconsin.

INDENTURE dated September 19, 1946, between DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY, a corporation organized and existing under the laws of the State of Minnesota, party of the first part, hereinafter called the "Railway Company", and THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, a corporation organized and existing under the laws of the United States of America, party of the second part, hereinafter called the "Trustee":

WHEREAS, the Railway Company on January 31, 1938, executed and delivered to the Trustee its First Mortgage dated October 1, 1937 (herein called the "First Mortgage"); and

WHEREAS, Section 6 of Article Nine of the First Mortgage provides that if at any time or times, in order to conform to any legal requirement, the Trustee shall so request, the Railway Company and the Trustee shall unite in the execution and performance of all instruments and agreements necessary or proper to appoint another bank or trust company or one or more persons, approved by the Trustee, either to act as co-trustee or co-trustees of all or any part of the mortgaged property, jointly with the Trustee originally named herein or its successor, or to act as separate trustee or trustees of any such property, with such powers as may be provided in the instrument of appointment; and provides further that any such trustee or trustees may be removed by the Railway Company and the Trustee at any time by an instrument in writing executed by them jointly; and

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WHEREAS, the Railway Company on March 28, 1938, executed and delivered to the Trustee its Supplemental Indenture bearing that date (herein called the "1938 Supplemental Indenture"), wherein and whereby (a) certain properties therein described (some of which are located within the State of Wisconsin) were conveyed and assigned to the Trustee and subjected to the lien of the First Mortgage, and (b) the Railway Company and the Trustee united in the appointment of Walter F. Kearns as Co-Trustee of any mortgaged property situated within the State of Wisconsin, with such powers as were therein provided, all as in the 1938 Supplemental Indenture more particularly set forth; and

WHEREAS, by instrument in writing dated August 28, 1946, said Walter F. Kearns resigned as such Co-Trustee effective upon the appointment of his successor; and

WHEREAS, pursuant to Section 6 of Article Nine of the First Mortgage, the Trustee has requested that the Railway Company unite with the Trustee in the execution of an instrument appointing CHARLES C. HUBBELL, JR. (whose office and post-office address is No. 2 Wall Street, New York 15, New York, and who is approved by the Trustee) as successor to said Walter F. Kearns as Co-Trustee, jointly with the Trustee or its successor, of that part of the property of the Railway Company now owned or hereafter acquired, situated within the State of Wisconsin and covered by the lien of the First Mortgage as supplemented, or intended so to be; and

WHEREAS, at a meeting of the Board of Directors of the Railway Company, duly held, pursuant to due notice, on the 19th day of September, 1946, a quorum being present and acting throughout, resolutions were duly adopted authorizing the execution and delivery by the Railway Company of a supplemental indenture in the form of this Indenture, to the Trustee, and its successors, for the purposes and upon the conditions set forth in this Indenture;

NOW THEREFORE, THIS INDENTURE WITNESSETH:

That in consideration of the premises, and in conformity with the provisions of Section 6 of Article Nine of the First Mortgage, it is agreed and covenanted by the Railway Company with the Trustee and the respective holders from time to time of Bonds secured by the First Mortgage, as supplemented, as follows, namely:

ARTICLE ONE

The Railway Company and the Trustee hereby unite in the removal of Walter F. Kearns as Co-Trustee and in the appointment of the said CHARLES C. HUBBELL, JR. (whose office and post-office address is No. 2 Wall Street, New York 15, New York) to act as successor to the said Walter F. Kearns as Co-Trustee, jointly with the Trustee or its successor, and not as tenant in common, of any and all property of the Railway Company now owned or hereafter acquired, situated within the State

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by the Railway Company. Except as otherwise provided in the 1938 Supplemental Indenture, no duties, responsibilities or liabilities are assumed or shall be construed to be assumed by the Trustee, or any such co-trustee or co-trustees, by reason of this Indenture other than as set forth in the First Mortgage and the 1938 Supplemental Indenture, and this Indenture is executed and accepted on behalf of the Trustee subject to all the terms and conditions set forth in the First Mortgage, as supplemented, as fully to all intents as if the same were herein set forth at length, and all the terms and provisions of the First Mortgage defining and limiting the liability and responsibility of the Trustee in the discharge of the trusts thereof, shall, in like manner, define and limit its liability and responsibility in the performance of the trusts under this Indenture as if expressly stated in this instrument.

The Trustee shall be under no duty to file, register or record or cause to be filed, registered or recorded this Indenture or to refile, reregister or rerecord or renew the same, but the Railway Company covenants that it will with all convenient speed duly record, register and file and rerecord, reregister and refile this Indenture as may be required by law in order to protect the lien of the First Mortgage and the 1938 Supplemental Indenture on the property covered thereby or intended so to be, and will do all other things requisite to preserve, protect and continue the lien of the First Mortgage, as supplemented.

of Wisconsin and covered by the lien of the First Mortgage, as supplemented, or intended so to be, with such powers, if any, and such powers only, as may be necessary to comply with any legal requirement respecting trustees under mortgages or deeds of trust of property in the State of Wisconsin.

ARTICLE TWO

All of the terms and provisions of the First Mortgage and the 1938 Supplemental Indenture which were applicable to said Walter F. Kearns as Co-Trustee, or any successor, shall apply to the said Charles C. Hubbell, Jr., as successor Co-Trustee, or any successor, with the same force and effect as if the said Charles C. Hubbell, Jr. had been originally named in the 1938 Supplemental Indenture as Co-Trustee, instead of the said Walter F. Kearns, and with the same force and effect as if said terms and provisions were set forth in full and at length in this Supplemental Indenture.

ARTICLE THREE

Neither the Trustee nor any co-trustee or co-trustees at any time appointed under the First Mortgage or pursuant to the 1938 Supplemental Indenture shall be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Indenture or the due execution hereof by the Railway Company or for or in respect of the recitals and statements contained herein, all of which recitals and statements are made solely

ARTICLE FOUR

For the purpose of facilitating the recording of this Supplemental Indenture, the same may be executed simultaneously in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY has caused its corporate name to be signed by its President or a Vice-President, and its corporate seal to be affixed hereto, attested by its Secretary or an Assistant Secretary; and The First National Bank of the City of New York has caused its corporate name to be signed by its President or a Vice-President and its corporate seal to be affixed hereto, attested by its Cashier or an Assistant Cashier, all as of the day and year first above written.

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

By _____
President.

Attest:

_____
Secretary.

Signed, sealed and delivered in the presence of:

_____

_____
As to Duluth, Missabe and Iron Range Railway Company.

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK

By _____
Vice-President.

Attest:

_____
Assistant Cashier.

Signed, sealed and delivered in the presence of:

_____

_____
As to The First National Bank of the City of New York.

CHARLES C. HUBBELL, JR., by this instrument appointed successor to Walter F. Kearns, as Co-Trustee, hereby accepts such appointment as Successor Co-Trustee and the trusts declared and provided in the 1938 Supplemental Indenture and this Supplemental Indenture, and agrees to perform the same upon the terms and conditions therein and herein set forth.

Charles C. Hubbell Jr

Signed, sealed and delivered
in the presence of:

L. Kerr

F. J. Crawford

As to Charles C. Hubbell, Jr.

STATE OF MINNESOTA,)
(ss.
County of St.Louis.)

On this 19th day of September, 1946, before me, a Notary Public of the State of Minnesota, in and for the County of St. Louis, personally came and appeared P. H. Van Hoven, President, and A. E. Arneson, Secretary of DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY, to me personally known and known to me to be such President and Secretary, respectively, of said corporation, and known to me to be the persons who executed the foregoing Indenture on behalf of Duluth, Missabe and Iron Range Railway Company, who being by me duly and severally sworn, did severally say that the said P. H. Van Hoven is the President, and the said A. E. Arneson is the Secretary of Duluth, Missabe and Iron Range Railway Company, that the seal affixed to the foregoing Indenture is the corporate seal of said corporation, that said Indenture was executed on behalf of said corporation by authority of its Board of Directors, and they severally acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first written.

Harold A. Maher

HAROLD A. MAHER, Notary Public,
St. Louis County, Minnesota.
My Commission expires March 27, 1952.

245

STATE OF NEW YORK,)
(SS.
COUNTY OF NEW YORK.)

On this 25th day of September, 1946, before me, a Notary Public of the State of New York, in and for the County of New York, personally came and appeared Leverett F. Hooper, Vice-President, and W. E. GERDES, Assistant Cashier of THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, to me personally known and known to me to be such Vice-President and Assistant Cashier, respectively, of said corporation, and known to me to be the persons who executed the foregoing Indenture on behalf of The First National Bank of the City of New York, who being by me duly and severally sworn, did severally say that the said Leverett F. Hooper is a Vice-President, and the said W. E. GERDES is an Assistant Cashier of The First National Bank of the City of New York, that the seal affixed to the foregoing Indenture is the corporate seal of said corporation , that said Indenture was executed in behalf of said corporation by authority of its Board of Directors, and they severally acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first written.

William T. Loveland
Notary Public

WILLIAM T. LOVELAND
NOTARY PUBLIC, NEW YORK COUNTY
N. Y. COUNTY CLERK'S NO. 212, REG. NO. 300-L-8
COMMISSION EXPIRES MARCH 30, 1948

246

STATE OF NEW YORK,)
(SS.
COUNTY OF NEW YORK.)

On this 25th day of September, 1946, before me, a Notary Public of the State of New York, in and for the County of New York, personally came and appeared the above named CHARLES C. HUBBELL, JR., to me known to be the person who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year in this instrument first written.

William T. Loveland
Notary Public

WILLIAM T. LOVELAND
NOTARY PUBLIC, NEW YORK COUNTY
N. Y. COUNTY CLERK'S NO. 212, REG. NO. 300-L-8
COMMISSION EXPIRES MARCH 30, 1948

STATE OF MINNESOTA
DEPARTMENT OF STATE
I hereby certify that the within instrument was filed for record in this office on the 8 day of Oct. A. D. 1946, at 7:40 o'clock A. M., and was duly recorded in Book 30 Gen. RR. Records & Misc. Incorporations, on page 90
Mike Holm
Secretary of State

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 10th day of October A. D. 1946 at 10:00 o'clock A.M. and recorded in Vol. 39 of Railroad Mortgages on page 241 ET SEQ.
Assistant Secretary of State

INDEXED

(Fee $1.60)

SATISFACTION OF MORTGAGE

DATED OCTOBER 1, 1937

from

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK (TRUSTEE)

to

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

DATED OCTOBER 31, 1946

SATISFACTION OF MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, WHEREAS, heretofore and under date of October 1, 1937, DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY, a corporation organized and existing under the laws of the State of Minnesota, hereinafter called the "Company", executed and delivered to THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, a corporation organized and existing under the laws of the United States of America, hereinafter called the "Trustee", the certain Mortgage of the Company, hereinafter called the "Mortgage", to secure an issue of bonds of the Company, known as its First Mortgage 3½% Bonds, due October 1, 1962; and

WHEREAS, said Mortgage was filed and recorded as follows:

In the office of the Register of Deeds of St. Louis County, Minnesota, on February 16, 1938, at 2:30 P.M., in Book 666 of Mortgages, page 528, as Instrument No. 569508;

In the office of the Secretary of State of Minnesota on February 18, 1938, at 2:45 P.M., in Book 21 of General Railroad Records, on page 77;

In the office of the Register of Deeds of Itasca County, Minnesota, on February 23, 1938, at 11:25 A.M., in Book 56 of Mortgages, page 1, as Document No. 132916;

In the office of the Register of Deeds of Carlton County, Minnesota, on February 21, 1938, at 2:30 P.M., in Book 83 of Mortgages, page 259, as Document No. 95700;

In the office of the Register of Deeds of Lake County, Minnesota, on February 24, 1938, at 9:40 A.M., in Book 7 of Mortgages, page 321, as Document No. 50799;

In the office of the Secretary of State of Wisconsin on February 18, 1938, at 10:45 A.M., in Book 33 of Railroad Deeds and Mortgages, page 282-341 inclusive; and

WHEREAS, heretofore and under date of March 28, 1938, the Company and the Trustee entered into an agreement, hereinafter called the "Supplemental Indenture", made pursuant to the terms of said Mortgage pledging additional security for said First Mortgage 3½% Bonds due October 1, 1962, and appointing Walter F. Kearns as Co-Trustee; and

WHEREAS, said Supplemental Indenture was filed and recorded as follows:

In the office of the Secretary of State of Minnesota on March 31, 1938, at 1:00 P.M., in Book 21 of Railroad Records, page 89;

In the office of the Register of Deeds of St. Louis County, Minnesota, on March 30, 1938, at 9:30 A.M., in Book 667 of Mortgages, page 404, as Document No. 570472;

In the office of the Register of Deeds of Lake County, Minnesota, on March 31, 1938, at 8:35 A.M., in Book 7 of Mortgages, page 389, as Document No. 50890;

This instrument is executed in fourteen (14) counterparts, each of which shall be and shall be taken to be an original, and all collectively but one instrument.

IN WITNESS WHEREOF, the said THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK has caused these presents to be executed in its corporate name by its President or one of its Vice Presidents and the same to be attested by the signature of its Cashier or an Assistant Cashier, and its corporate seal to be hereunto affixed, and CHARLES C. HUBBELL, JR., has hereunto set his hand and seal, all as of this 31st day of October, 1946.

(CORPORATE SEAL)

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,

SIGNED, SEALED AND DELIVERED IN PRESENCE OF:

By HENRY S. STURGIS
Vice President

HAROLD C. MICHAEL

Attest: W. E. GERDES
Assistant Cashier.

FRANK J. CRAWFORD
As to The First National Bank of the City of New York.

HAROLD C. MICHAEL

C. C. HUBBELL JR. (SEAL)

FRANK J. CRAWFORD
As to Charles C. Hubbell, Jr.

STATE OF NEW YORK,)
COUNTY OF NEW YORK.) ss.

On this 31st day of October, 1946, before me, a Notary Public of the State of New York, in and for the County of New York, personally came and appeared Henry S. Sturgis, Vice President, and W. E. Gerdes, Assistant Cashier, of THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, to me personally known and known to me to be such Vice President and Assistant Cashier, respectively, of said corporation, and known to me to be the persons who executed the foregoing Satisfaction of Mortgage on behalf of The First National Bank of the City of New York, who being by me duly and severally sworn, did severally say that the said Henry S. Sturgis is a Vice President, and the said W. E. Gerdes is an Assistant Cashier of The First National Bank of the City of New York, that the seal affixed to the foregoing Satisfaction of Mortgage is the corporate seal of said corporation, that said Satisfaction of Mortgage was executed in behalf of said corporation by authority of its Board of Directors, and they severally acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first written.

(NOTARIAL SEAL)

PETER H. MORENO
Notary Public in the State of New York
Residing in New York County
N.Y. Co.Clk's No.262,Reg.No.368-M-8
Commission Expires March 30, 1948

STATE OF NEW YORK,)
COUNTY OF NEW YORK.) SS

On this 31st day of October, 1946, before me, a Notary Public of the State of New York, in and for the County of New York, personally came and appeared the above named CHARLES C. HUBBELL, JR., to me known to be the person who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year in this instrument first written.

(NOTARIAL SEAL)

PETER H. MORENO
Notary Public in the State of New York
Residing in New York County
N.Y.Co.Clk's No.262, Reg. No. 368-M-8
Commission Expires March 30, 1948

STATE OF WISCONSIN)
DEPARTMENT OF STATE) SS

Received this 2nd day of November A.D. 1946 at 10:00 o'clock A.M. and recorded in Vol. 39 of Railroad Mortgages on pages 247-249.

ROBERT C. ZIMMERMAN
Assistant Secretary of State

In the office of the Register of Deeds of Itasca County, Minnesota, on March 31, 1938, at 4:00 P.M., in Book 56 of Mortgages, page 131, as Document No. 133128;

In the office of the Register of Deeds of Carlton County, Minnesota, on March 31, 1938, at 8:30 A.M., in Book 83 of Mortgages, page 313;

In the office of the Secretary of State of Wisconsin on March 31, 1938, at 11:45 A.M., in Volume 33 of Railroad Mortgages, page 342-351 inclusive,and

WHEREAS, heretofore and under date of September 19, 1946, the Company and the Trustee entered into an agreement, hereinafter called the "Second Supplemental Indenture", made pursuant to the terms of said Mortgage and said Supplemental Indenture, removing said Walter F. Kearns as Co-Trustee, in accordance with the terms of said Mortgage and said Supplemental Indenture, and naming Charles C. Hubbell, Jr., as successor Co-Trustee; and

WHEREAS, said Second Supplemental Indenture was filed and recorded as follows:

In the office of the Secretary of State of Minnesota on October 8, 1946, at 7:45 A.M., in Volume 30 of General Railroad Records & Liens, page 90;

In the office of the Secretary of State of Wisconsin on October 10th, 1946, at 10:00 A.M., in Book 39 of Railroad Mortgages, page 241 et seq.;

In the office of the Register of Deeds of St. Louis County, Minnesota, on October 18, 1946, at 1:00 P.M., in Book 750 of Mortgages, page 486, as Document No. 706214;

In the office of the Register of Deeds of Lake County, Minnesota, on October 21st, 1946, at 11:30 A.M., in Book N of Misc., page 146, as Document No. 58569;

In the office of the Register of Deeds of Itasca County, Minnesota, on October 22, 1946, at 8:00 A.M., in Book 69 of Mortgages, page 1, as Document No. 161756;

In the office of the Register of Deeds of Carlton County, Minnesota, on October 23, 1946, at 1:30 P.M., in Book 78 of Mortgages, page 233.

NOW THEREFORE, the said The First National Bank of the City of New York, as Trustee under the said Mortgage, Supplemental Indenture and Second Supplemental Indenture, as above set forth, and Charles C. Hubbell, Jr., as successor Co-Trustee, under said Mortgage, Supplemental Indenture and Second Supplemental Indenture, as above set forth, do hereby certify that the whole amount of the principal and premium, if any, and interest due and payable upon all of said First Mortgage 3½% Bonds due October 1, 1962, and the coupons for interest thereon, have been paid or payment therefor has been provided by depositing with or for the account of the Trustee in trust for the payment of said First Mortgage 3½% Bonds due October 1, 1962, and coupons, the amount due and payable for principal and premium, if any, and interest, all as provided for in said Mortgage, Supplemental Indenture and Second Supplemental Indenture, and do hereby acknowledge full and complete satisfaction of the said Mortgage, Supplemental Indenture and Second Supplemental Indenture; and the Secretary of State of the State of Minnesota, the Secretary of State of the State of Wisconsin, and the Register of Deeds for each of the Counties of St. Louis, Itasca, Carlton and Lake, all in Minnesota, each is hereby authorized and directed to discharge the said Mortgage, Supplemental Indenture and Second Supplemental Indenture upon the records thereof in his office, according to the statutes in such case made and provided.

This instrument is executed in fourteen (14) counterparts, each of which shall be and shall be taken to be an original, and all collectively but one instrument.

IN WITNESS WHEREOF, the said THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK has caused these presents to be executed in its corporate name by its President or one of its Vice Presidents and the same to be attested by the signature of its Cashier or an Assistant Cashier, and its corporate seal to be hereunto affixed, and CHARLES C. HUBBELL, JR., has hereunto set his hand and seal, all as of this 31st day of October, 1946.

(CORPORATE SEAL)

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,

SIGNED, SEALED AND DELIVERED IN PRESENCE OF:

By HENRY S. STURGIS
Vice President

HAROLD C. MICHAEL

Attest: W. E. GERDES
Assistant Cashier.

FRANK J. CRAWFORD
As to The First National Bank of the City of New York.

HAROLD C. MICHAEL

C. C. HUBBELL JR. (SEAL)

FRANK J. CRAWFORD
As to Charles C. Hubbell, Jr.

STATE OF NEW YORK,)
COUNTY OF NEW YORK.) ss.

On this 31st day of October, 1946, before me, a Notary Public of the State of New York, in and for the County of New York, personally came and appeared Henry S. Sturgis, Vice President, and W. E. Gerdes, Assistant Cashier, of THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, to me personally known and known to me to be such Vice President and Assistant Cashier, respectively, of said corporation, and known to me to be the persons who executed the foregoing Satisfaction of Mortgage on behalf of The First National Bank of the City of New York, who being by me duly and severally sworn, did severally say that the said Henry S. Sturgis is a Vice President, and the said W. E. Gerdes is an Assistant Cashier of The First National Bank of the City of New York, that the seal affixed to the foregoing Satisfaction of Mortgage is the corporate seal of said corporation, that said Satisfaction of Mortgage was executed in behalf of said corporation by authority of its Board of Directors, and they severally acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first written.

(NOTARIAL SEAL)

PETER H. MORENO
Notary Public in the State of New York
Residing in New York County
N.Y. Co.Clk's No.262,Reg.No.368-M-8
Commission Expires March 30, 1948

STATE OF NEW YORK,)
COUNTY OF NEW YORK.) SS

On this 31st day of October, 1946, before me, a Notary Public of the State of New York, in and for the County of New York, personally came and appeared the above named CHARLES C. HUBBELL, JR., to me known to be the person who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year in this instrument first written.

(NOTARIAL SEAL)

PETER H. MORENO
Notary Public in the State of New York
Residing in New York County
N.Y.Co.Clk's No.262, Reg. No. 368-M-8
Commission Expires March 30, 1948

STATE OF WISCONSIN)
DEPARTMENT OF STATE) SS

Received this 2nd day of November A.D. 1946 at 10:00 o'clock A.M. and recorded in Vol. 39 of Railroad Mortgages on pages 247-249.

ROBERT C. ZIMMERMAN
Assistant Secretary of State

DULUTH, MISSABE AND IRON RANGE
RAILWAY COMPANY

TO

THE FIRST NATIONAL BANK OF THE
CITY OF NEW YORK

AND

CHARLES C. HUBBELL, JR.,

TRUSTEES.

First Mortgage

Dated October 1, 1946.

**$19,200,000 First Mortgage Serial Bonds,
due October 1, 1947-October 1, 1962**

Pandick Press, Inc., 22 Thames St., New York 6, N. Y., U. S. A.

THIS INDENTURE, dated October 1, 1946, between the DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY, a corporation organized and existing under the laws of the State of Minnesota, party of the first part, hereinafter called the "Railway Company", and THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, a corporation organized and existing under the laws of the United States of America, and Charles C. Hubbell, Jr., of The City of New York, State of New York, parties of the second part, hereinafter referred to jointly as the "Trustees" and when referred to separately, the "Corporate Trustee" and the "Individual Trustee," respectively.

WHEREAS, the Railway Company has been duly organized under the laws of the State of Minnesota and owns and operates certain lines of railroad; and

WHEREAS, the Railway Company is duly authorized to issue its bonds for the purposes hereinafter set forth and to mortgage its property, real and personal, and its franchises to secure the payment of such bonds; and

WHEREAS, the Railway Company desires to issue its bonds in the principal amount of $19,200,000 (hereinafter sometimes called the "Bonds") to be sold for cash for the purpose of providing a portion of the funds for the redemption or retirement, or to reimburse the Railway Company in part for the redemption or retirement, prior to maturity, of $19,800,000, principal amount of First Mortgage 3½% Bonds of the Railway Company due October 1, 1962; and

WHEREAS, at a meeting of the Board of Directors of the Railway Company, duly held, pursuant to due notice,

on the 25th day of October 1946, a quorum being present and acting throughout, resolutions were duly adopted, pursuant to authority given by all of the stockholders of the Railway Company in a consent executed under date of September 17, 1946, authorizing the execution and delivery by the Railway Company of a mortgage or deed of trust substantially in the form of this Indenture to the Trustees, and their successors, to secure bonds for the purposes and upon the conditions set forth in this Indenture; and

WHEREAS, the texts of the Bonds and of the coupons to be appurtenant thereto and of the Corporate Trustee's certificate of authentication to be endorsed on said Bonds, are to be severally and respectively substantially as follows:

[FORM OF BOND]

No. .....

$1,000

DULUTH, MISSABE AND IRON RANGE
RAILWAY COMPANY

FIRST MORTGAGE SERIAL BOND

Interest .....% per annum. Due October 1, 19.....

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY, a corporation organized and existing under the laws of the State of Minnesota, hereinafter called the "Railway Company", for value received hereby promises to pay on the first day of October, 19..... (unless this Bond shall be called for previous redemption and payment thereof duly provided for), to the bearer hereof the principal sum of One Thousand Dollars ($1,000) and to pay interest on said principal sum at the rate of .....% per annum from

the date hereof, semi-annually on the first day of April and the first day of October in each year until the said principal amount shall become due and payable, and thereafter as provided in the indenture hereinafter referred to; but until the maturity of this Bond only upon presentation and surrender of the appropriate coupons for such interest installments as are evidenced thereby hereto attached, as severally they mature. Both the principal of, premium if any, and interest on this Bond are payable at the office of J. P. Morgan & Co. Incorporated, in the Borough of Manhattan, The City of New York, State of New York, or at the office therein of any successor paying agent, in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

This Bond is one of an issue of coupon Bonds of the Railway Company of the denomination of $1,000 each, designated as its First Mortgage Serial Bonds, limited in principal amount to Nineteen Million Two Hundred Thousand Dollars ($19,200,000), maturing serially in principal amounts of One Million Two Hundred Thousand Dollars ($1,200,000) on October 1 in each year beginning October 1, 1947 and ending October 1, 1962, bearing interest at the respective rates expressed therein, and all issued under and equally and ratably secured by a mortgage or deed of trust dated October 1, 1946, executed by the Railway Company to The First National Bank of the City of New York, and Charles C. Hubbell, Jr., as Trustees, hereinafter called the "Indenture", to which reference is hereby made for a description of the property mortgaged, the nature and extent of the security, and the rights of the holders of said Bonds and coupons and of the Trustees in respect of such security, and the terms and conditions upon which said Bonds are issued.

If an event of default, as defined in the Indenture, shall occur, the principal sum of the Bonds may be declared or may become due and payable in the manner and with the effect in the Indenture provided.

251
(Fee $ 40.00)

252

The Bonds are issuable as coupon Bonds in the denomination of $1,000.

The Indenture contains provisions giving to the holders of 66⅔% in aggregate principal amount of outstanding Bonds the power by resolution at a bondholders' meeting to take the various actions therein specified including the sanction of any change or alteration of any provision of the Indenture and any modification or compromise of the rights of the holders of the Bonds against the Railway Company or against its property, provided that no such change or alteration which, in the opinion of the Corporate Trustee, shall affect the rights, duties or immunities of the Trustees under the Indenture may be made without the consent of the Trustees, and provided that the bondholders shall have no power to (a) extend the maturity of any of the Bonds, or reduce the rate of interest thereon, or otherwise modify the terms of payment of such principal or interest without the consent of the holder of each Bond so affected, or (b) effect a reduction of the percentage required for any change or alteration or modification or compromise as aforesaid without the consent of the holders of all the outstanding Bonds.

No reference herein to the Indenture, and no provision of this Bond or of the Indenture, shall alter or impair the obligation of the Railway Company, which is absolute and unconditional, to pay the principal and interest of this Bond at the time and place and at the rate and in the currency prescribed herein.

The Bonds may be redeemed, at any time, at the option of the Railway Company, as a whole, or the Bonds of any one or more series may likewise be redeemed, as a whole, at the office of J. P. Morgan & Co. Incorporated, in the Borough of Manhattan, The City of New York, or at the office therein of any successor paying agent, by payment of the respective redemption price or prices then applicable, together with interest accrued to the

date fixed for redemption, upon publication at least four times in one daily newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, The City of New York (the first publication to be not less than forty-five days nor more than sixty days prior to the date fixed for such redemption), all as more fully provided in the Indenture. The redemption price applicable to this Bond shall be the principal amount thereof, plus a premium equal to twenty one-hundredths of one per cent. (20/100 of 1%) of such principal amount for each period of twelve months or fraction thereof from the date fixed for redemption to the date on which this Bond matures according to its terms.

No recourse shall be had for the payment of the principal of, premium if any, or interest upon this Bond, or for any claim based hereon or otherwise in respect hereof, or based on or in respect of the Indenture, against any incorporator, stockholder, officer or director, as such, past, present or future, of the Railway Company or of any successor corporation, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, all such liability, whether presently existing or hereafter arising, being, by the acceptance hereof, and as part of the consideration for the issue hereof, expressly waived and released as provided in the Indenture.

Neither this Bond nor any of the coupons hereto attached shall be valid or obligatory for any purpose, unless and until the certificate of authentication, hereon endorsed, shall have been executed by the Corporate Trustee under the Indenture.

In Witness Whereof, the Railway Company has caused this Bond to be signed by its President or a Vice-President and its corporate seal to be affixed hereunto and to be attested by its Secretary or an Assistant Secretary, and coupons for interest, bearing the engraved

facsimile of the signature of its Treasurer, to be attached hereto, and this Bond to be dated as of the first day of October, 1946.

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY,

By .....
President.

(L. S.)

Attest:

.....
Secretary.

[FORM OF INTEREST COUPON]

No..... $.....

On the first day of ....., unless the Bond hereinafter mentioned shall have been called for previous redemption and payment duly provided for, DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY will pay to bearer at the office of J. P. Morgan & Co. Incorporated, in the Borough of Manhattan, The City of New York, State of New York, or at the office therein of any successor paying agent, on surrender of this coupon,

Dollars in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts, being six months' interest then due on its First Mortgage Serial Bond, due October 1, 19...., No. .....

.....
Treasurer.

[FORM OF TRUSTEE'S CERTIFICATE]

This Bond is one of the Bonds described in the within mentioned Indenture.

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, Corporate Trustee,

By.....
Authorized Officer.

WHEREAS, the Interstate Commerce Commission by its order entered October , 1946, in Finance Docket No. 15,467, has authorized the issue of the Bonds hereunder, and all other acts and things prescribed by law have been duly performed and complied with, and the Railway Company has executed this Indenture and proposes to issue the Bonds hereby secured in the exercise of legal right, power and authority in it vested:

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That for and in consideration of the premises and of the acceptance and purchase of the Bonds by the holders thereof and of the sum of Ten Dollars ($10) lawful money of the United States of America to the Railway Company duly paid by the Trustees at the time of the delivery of this Indenture, the receipt whereof is hereby acknowledged, and in order to secure the payment of the principal of, premium if any, and interest upon all Bonds issued and to be issued under this Indenture according to their tenor and effect, and to secure the performance of all the covenants and conditions herein contained, and in order to charge with such payment and with such performance the railroads, railroad property

and appurtenances, rights, privileges, franchises and other properties hereinafter described, the Railway Company has executed and delivered this Indenture and has granted, bargained, sold, aliened, remised, released, conveyed, confirmed, mortgaged, pledged, assigned, transferred and set over, and by these presents does grant, bargain, sell, alien, remise, release, convey, confirm, mortgage, pledge, assign, transfer and set over unto the Trustees, and to their successors in the trust and assigns, forever:

All and singular the railroads, property and appurtenances, franchises, rights and privileges of the Railway Company, including the properties more particularly hereinafter described, viz.:

I. (1) All and singular the main lines of railroad, including the following:

The main line extending from Missabe Junction in the City of Duluth to the Village of Mountain Iron, all in St. Louis County, Minnesota, having a length of about..... 71.89 miles

The land constituting the foregoing right-of-way is subject, as to 2.29 miles thereof, to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

The main line extending from Iron Junction to Biwabik, all in said St. Louis County, having a length of about..... 15.78 miles

The land constituting the foregoing right-of-way is subject, as to .25 of a mile thereof, to mineral, mining, timber and

removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

The main line extending from Wolf to Virginia, all in said St. Louis County, having a length of about..... 6.76 miles

The main line extending from Wolf to Hibbing, all in said St. Louis County, having a length of about..... 17.03 miles

1.02 miles of the land constituting the foregoing right-of-way are held under a revocable license, and, together with 2.37 additional miles thereof, are subject to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

The main line extending from Coleraine Junction in said St. Louis County to a connection with the tracks of the Great Northern Railway at Calumet in Itasca County, Minnesota, having a length of about..... 43.44 miles

The land constituting the foregoing right-of-way is subject, as to 3.72 miles thereof, to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

The main line extending from a connection with tracks of the Great Northern Railway at Holman to Coleraine, all in said Itasca County, having a length of about..... 5.32 miles

The land constituting the foregoing right-of-way is subject, as to 3.46 miles thereof, to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

The main line extending from Hull Junction to Hull Rust all in said St. Louis County having a length of about..... 17.99 miles

1.67 miles of the land constituting the foregoing right-of-way are held under a revocable license, and, together with 4.55 additional miles thereof, are subject to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

The main line extending from Adolph to St. Louis River Bridge, in St. Louis and Carlton Counties, Minnesota, having a length of about..... 12.73 miles

The main line extending from Steelton to Duluth Transfer Connection, all in said St. Louis County, having a length of about 1.95 miles

The main line extending from the City of Duluth in St. Louis County, Minnesota, to the City of Two Harbors in Lake County, Minnesota, thence to Winton in said St. Louis County and then into said Lake County, having a length of about..... 121.22 miles

The main line extending from Tower Junction to Tower, all in said St. Louis County, having a length of about..... 2.19 miles

The main line extending from Allen Junction to Virginia, all in said St. Louis County, having a length of about..... 21.87 miles

The land constituting the foregoing right-of-way is subject, as to 2.18 miles thereof, to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

The main line extending from Gilbert Junction to Gilbert, all in said St. Louis County, having a length of about..... .48 mile

The main line extending from McKinley to Eveleth and Largo, all in said St. Louis County, having a length of about..... 12.41 miles

The land constituting the foregoing right-of-way is subject, as to 7.08 miles thereof, to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

The main line extending from St. Louis River to South Itasca, all in Douglas County, Wisconsin, having a length of about ..... 10.28 miles

(2) Also, all and singular the branch lines of railroad, including the following:

Spruce Branch, extending from Spruce to Eveleth, all in said St. Louis County, having a length of about..... 3.23 miles

Biwabik-Spruce Branch, extending from Biwabik to Hobart and Duluth Mines, all in said St. Louis County, having a length of about ..... 1.19 miles

The land constituting the foregoing right-of-way is subject, as to .92 of a mile thereof, to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

Sliver Branch, extending from Rainy Junction, all in said St. Louis County, having a length of about..... 7.47 miles

The land constituting the foregoing right-of-way is subject, as to 3.15 miles thereof, to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

Virginia Branch, extending from Virginia, all in said St. Louis County, having a length of about..... 5.28 miles

2.16 of a mile of the land constituting the foregoing right-of-way is held under a revocable license, and, together with the remaining 3.12 miles thereof, is subject to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

Wacootah Branch, extending from Mountain Iron, all in said St. Louis County, having a length of about..... 1.56 miles

0.60 of a mile of the land constituting the foregoing right-of-way is held under a revocable license, and, together with the remaining .96 of a mile thereof, is subject to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

Sharon Branch, extending from Sherwood all in said St. Louis County, having a length of about..... 9.71 miles

0.53 of a mile of the land constituting the foregoing right-of-way is held under a revocable license, and, together with 4.29 additional miles thereof, is subject to mineral, mining, timber and removal

Canisteo Branch, extending from Taconite Junction, all in said Itasca County, having a length of about..... 3.96 miles

The land constituting the foregoing right-of-way is subject, as to 3.46 miles thereof, to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto, prior to the execution of this Indenture.

The Wales Branch extending from Wales to Whyte, all in Lake County, Minnesota, having a length of about..... 19.07 miles

The land constituting the foregoing right-of-way is subject, as to 5.87 miles thereof, to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

The Eastern Mesaba Branch extending from Mesaba through Divide to a point about 1.66 miles east of Lenont Junction and from Divide to Babbit, all in St. Louis County, Minnesota, having a length of about ..... 20.97 miles

2.99 miles of the land constituting the foregoing right of way is held under a revocable license, and, together with 17.98 additional miles thereof, is subject to mineral, mining, timber and removal rights and reservations, retained by the

grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

The Burntside Lake Branch extending from Robinson to Burntside Lake, all in said St. Louis County, having a length of about 3.26 miles

The land constituting the foregoing right-of-way is subject, as to 1.68 miles thereof, to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

The following branches in said St. Louis and Lake Counties:

Basswood Lake Branch..... 3.60 miles

The land constituting the foregoing right-of-way is subject, as to .30 of a mile thereof, to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

Eve Lake Branch..... 1.72 miles

0.41 of a mile of the land constituting the foregoing right-of-way is held under a revocable license, and, together with an additional .44 of a mile thereof, is subject to mineral, mining, timber and removal rights and reservations retained by the

rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

Shaw Cut-off Branch, extending from Sherwood to Keenan, all in said St. Louis County, having a length of about..... 8.04 miles

Chisholm Branch, extending from Wilpen to Chisholm, all in said St. Louis County, having a length of about..... 10.68 miles

2.71 of a mile of the land constituting the foregoing right-of-way is held under a revocable license, and, together with 2.86 additional miles thereof, is subject to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

Mitchell Branch, extending from Mitchell, all in said St. Louis County, having a length of about..... 6.24 miles

1.39 of a mile of the land constituting the foregoing right-of-way is held under a revocable license, and, together with 3.35 additional miles thereof, is subject to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

Hibbing Branch, extending from Hibbing, all in said St. Louis County, having a length of about..... 2.82 miles

The land constituting the foregoing right-of-way is subject, as to 1.44 miles thereof, to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto, prior to the execution of this Indenture.

Marble Branch, extending from Marble, all in said Itasca County, having a length of about..... 5.31 miles

0.96 of a mile of the land constituting the foregoing right-of-way is held under a revocable license, and, together with 4.10 additional miles thereof, is subject to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto, prior to the execution of this Indenture.

Taconite Branch, extending from Taconite, all in said Itasca County, having a length of about..... 1.58 miles

All of the land constituting the foregoing right-of-way is subject to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto, prior to the execution of this Indenture.

The following branches in said St. Louis County:

Soudan Branch..... 2.04 miles

Ely Branch..... 7.25 miles

1.10 of a mile of the land constituting the foregoing right-of-way is held under a revocable license, and, together with 1.80 additional miles thereof, is subject to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto, prior to the execution of this Indenture.

Colby Branch..... 2.74 miles

All of the land constituting the foregoing right-of-way is subject to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

Aurora Branch..... 3.42 miles

The land constituting the foregoing right-of-way is subject, as to 2.10 miles thereof, to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as

in law such rights may have attached thereto prior to the execution of this Indenture.

Biwabik Branch..... 6.85 miles

0.83 of a mile of the land constituting the foregoing right-of-way is held under a revocable license, and, together with 1.18 additional miles thereof, is subject to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto, prior to the execution of this Indenture.

McKinley Branch..... 2.96 miles

The land constituting the foregoing right-of-way is subject, as to 1.00 mile thereof, to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

Mariska Branch..... 4.27 miles

0.85 miles of the land constituting the foregoing right of way is held under a revocable license, and, together with 1.49 additional miles thereof, is subject to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

Pettit Branch ..... 3.62 miles

The land constituting the foregoing right-of-way is subject, as to .17 of a mile thereof, to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

Eveleth Branch ..... 5.38 miles

0.31 miles of the land constituting the foregoing right of way is held under a revocable license, and, together with 1.78 additional miles thereof, is subject to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

Largo Branch ..... 1.74 miles

The land constituting the foregoing right-of-way is subject, as to .62 of a mile thereof, to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

Skibo Mill Branch ..... 3.28 miles

Main Mine Spurs, all in said St. Louis County, having a length of about ..... 2.08 miles

All of the land constituting the foregoing right-of-way is subject to mineral, mining, timber and removal rights and reservations retained by the grantors thereof, but only in so far in scope, degree, priority or otherwise, as in law such rights may have attached thereto prior to the execution of this Indenture.

(3) Also, all and singular the tracks, additional to the main line and branch line tracks above described and used as part of, or in connection with, any of said main line or branch lines of railway.

II. (1) Those two certain ore docks on St. Louis River in the City of Duluth, St. Louis County, Minnesota, connected with and part of said railroad and known and designated as Ore Docks Nos. 5 and 6.

(2) Those three certain ore docks on Agate Bay near the City of Two Harbors, Lake County, Minnesota, connected with and part of said railroad, and designated and known as Docks Nos. 1, 2 and 6.

(3) That one certain coal dock on said St. Louis River in the City of Duluth, St. Louis County, Minnesota, connected with and part of said railroad.

(4) That one certain coal dock on Agate Bay, in the City of Two Harbors, Lake County, Minnesota, connected with and part of the said railroad.

(5) That one certain limestone dock on St. Louis River in the City of Duluth, St. Louis County, Minnesota, connected with and part of said railroad.

(6) That one certain merchandise dock, including the fish warehouse and platform on Agate Bay, in the City of Two Harbors, Lake County, Minnesota, connected with and part of the said railroad.

III. That one certain drawbridge used as part of the railroad, spanning the St. Louis River from Duluth in said St. Louis County, Minnesota, to a point on the easterly bank of said River in Douglas County, Wisconsin, together with the approaches thereto.

IV. Any and all railroads, lines of railroad, railroad property and appurtenances, docks and wharves and appurtenances, franchises, rights and privileges which the Railway Company may hereafter acquire.

V. Any and all rights of way, lands, fixtures, structures, improvements, tenements and hereditaments of whatever kind or description and wherever situated, now owned by the Railway Company, or which at any time hereafter may be acquired by or for it.

Reserving and excepting, however, from the lien hereof any and all lands heretofore or hereafter conveyed to or acquired by the Railway Company, and any beneficial or other interests of the Railway Company in lands, which have been granted by the State of Minnesota to any predecessor in title to said lands and which shall not be necessary or appurtenant to the use, operation, management, maintenance, renewal, alteration or improvement of the railroad lines and railroad property of the Railway Company.

VI. Any and all locomotives, engines and motors, however propelled and operated, cars, other rolling stock and equipment, boats, tugs, trucks, ma-

chinery, tools, implements, materials and other chattels now or hereafter owned by, and the title to which is or hereafter shall be vested in the Railway Company and used upon or in connection with any of the said lines of railroad, extensions, franchises or other properties now or hereafter subject to the lien of this Indenture, including all the right, title and interest now vested in, or hereafter acquired by the Railway Company in and to any and all locomotives and other rolling stock and equipment leased to or possessed by the Railway Company under any equipment trust agreements, conditional sale agreements or other agreements.

VII. Any and all additions and betterments to the rolling stock or other equipment, and any and all additions, betterments and improvements hereafter acquired or constructed upon or in connection with any and all of the lines of railroad, branch lines or extensions or upon or in connection with any of the telegraph and telephone lines hereafter in Clause X referred to, or upon or in connection with other real property, now or hereafter subject to the lien of this Indenture.

VIII. Any and all rights, powers, franchises and privileges now or hereafter owned or possessed by the Railway Company which now or at any time hereafter may be necessary for or appurtenant to the use, operation, management, maintenance, renewal, alteration or improvement of the railroads and other property now or hereafter subject to the lien of this Indenture.

IX. Any and all leases, leasehold rights, licenses, joint facility and other trackage contracts, rights and privileges and amendments, renewals and extensions thereof, whether the same or any thereof be now held by the Railway Company or hereafter

acquired by it for use upon or in connection with or belonging or appertaining to any of the aforesaid lines of railroad, now or hereafter subject to the lien of this Indenture, or relating to the ownership, use or operation of any terminals or union or other stations situated along, or at the terminus of any line of railroad now or hereafter subject to the lien of this Indenture.

X. Any and all telegraph, telephone or other communication lines now or hereafter owned by the Railway Company; and the right to the use of any and all other telegraph, telephone or other communication lines along the lines of railroad now or hereafter subject to the lien of this Indenture, in the same manner and to the same extent as they are now or hereafter may be used or subject to use by the Railway Company.

XI. Any and all other property of every kind and description (including railroads, leases of railroads, stocks, bonds or other property of any kind) which, at any time hereafter, by indenture or indentures supplemental hereto, may be expressly conveyed, mortgaged or pledged and delivered to the Trustees hereunder by the Railway Company, or by a successor corporation, or with its consent by any one in its behalf, as and for additional security or substituted security for the Bonds issued and to be issued hereunder; the Trustees being hereby authorized at any time and at all times to receive such conveyance, mortgage, pledge, delivery, assignment or transfer and to hold and apply any and all such properties subject to the trusts of this Indenture; but any such conveyance, mortgage, pledge, delivery, assignment or transfer pursuant to the provisions of this clause as and for additional security or substituted security may be made subject to any

liens, reservations, limitations, conditions and provisions which shall be specified or set forth in such supplemental indenture.

XII. All the right, title, estate and interest which the Railway Company now has or at any time hereafter may acquire in or to any of the railroads, franchises, leaseholds, stocks, bonds and other property, real, personal or mixed, mortgaged, conveyed, pledged and assigned by this Indenture, or intended so to be.

XIII. All the right, title, estate and interest which the Railway Company now has or at any time hereafter may acquire in or to any shares of stock, bonds, evidences of indebtedness or other securities of a common carrier railroad corporation, or of a corporation the property of which is used or useful in connection with the operation of the Railway Company.

XIV. All the rents, issues, tolls, profits and other income of the premises and property herein or hereafter mortgaged and conveyed or assigned or intended so to be.

It is not intended to include in the lien hereof, and this grant shall not be deemed to apply to (1) any rents, issues, tolls, profits or other income of the premises and property herein or hereafter mortgaged and conveyed or assigned, or any cash (except cash deposited with the Corporate Trustee pursuant to any of the provisions of this Indenture), or any bills, notes or accounts receivable, contracts or choses in action (other than bills, notes or accounts receivable, contracts or choses in action which may hereafter be subjected specifically to the lien hereof and assigned to or deposited with the Corporate Trustee) or (2) any shares of stock, bonds, evidences of indebted-

ness or other securities representing temporary investment of cash funds; unless and until one or more of the events specified in Section 1 of Article Nine hereof shall have happened and be continuing, and nothing in this Indenture expressed or implied is intended, or shall be construed, to limit the right of the Railway Company to consolidate with, merge into or convey the mortgaged property as a whole or substantially as a whole to another corporation subject to the continuing lien of this Indenture without the property of such other corporation becoming subject to the lien hereof, all as more fully provided and with the exceptions set forth in Article Ten hereof.

TO HAVE AND TO HOLD the premises, railroads, rights, franchises, estates, appurtenances, leaseholds and other property, real or personal (hereinafter sometimes termed collectively the "mortgaged property" or the "trust estate"), hereby conveyed or assigned, or intended to be conveyed or assigned, or which may be conveyed or assigned by indentures supplemental hereto, or which may otherwise be or become subject to the lien hereof, unto the Trustees, their successor or successors in the trust and assigns forever.

BUT IN TRUST, NEVERTHELESS, for the equal and proportionate benefit and security of all the present and future holders of the Bonds and coupons issued and to be issued by the Railway Company and authenticated by the Corporate Trustee under this Indenture, and for the enforcement of the payment of said Bonds and coupons when payable, and the performance of and compliance with the covenants and conditions of this Indenture, without preference, priority or distinction as to lien or otherwise of

any one Bond over any other Bond by reason of priority in the issue or negotiation thereof or otherwise, so that, except as in this Indenture otherwise provided, each and every Bond issued and to be issued and authenticated as aforesaid shall have the same right, lien and privilege under this Indenture, and so that subject to the terms hereof the principal of, premium if any, and interest upon every such Bond shall be equally and proportionately secured hereby, as if all such Bonds at any time outstanding had been made, executed, delivered and negotiated simultaneously with the execution and delivery of this Indenture; and it is hereby covenanted and declared that all such Bonds, with the coupons for interest thereon, are to be issued, authenticated and delivered, and that the trust estate is to be held by the Trustees, upon and subject to the following covenants, conditions, uses and trusts; and it is agreed and covenanted by the Railway Company with the Trustees and the respective holders from time to time of Bonds hereby secured, as follows, namely:

ARTICLE ONE.

Limitation on Amount and Issue of Bonds; Form and Execution of Bonds; Issue of Bonds.

SECTION 1. The principal amount of Bonds authorized by this Indenture is limited to $19,200,000, except for Bonds issued pursuant to Section 4 of this Article.

The Bonds secured by this Indenture shall be dated October 1, 1946; shall bear upon the face of each the due date thereof; shall mature and bear interest at the annual rates, which shall be payable semi-annually on April 1 and October 1 in each year, as follows:

Maturity Date	Interest Rate	Principal Amount
October 1, 1947	1.15%	$ 1,200,000
October 1, 1948	1.35%	1,200,000
October 1, 1949	1.50%	1,200,000
October 1, 1950	1.65%	1,200,000
October 1, 1951	1.75%	1,200,000
October 1, 1952	1.85%	1,200,000
October 1, 1953	1.95%	1,200,000
October 1, 1954	2.05%	1,200,000
October 1, 1955	2.15%	1,200,000
October 1, 1956	2.25%	1,200,000
October 1, 1957	2.30%	1,200,000
October 1, 1958	2.35%	1,200,000
October 1, 1959	2.40%	1,200,000
October 1, 1960	2.45%	1,200,000
October 1, 1961	2.50%	1,200,000
October 1, 1962	2.50%	1,200,000
Total		$19,200,000;

shall be payable both as to principal and interest at the office of J. P. Morgan & Co. Incorporated, in the Borough of Manhattan, The City of New York, State of New York, or at the office therein of any successor paying agent, in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts; shall be issuable in the form of coupon Bonds of the denomination of $1,000; shall be redeemable at the option of the Railway Company at the redemption prices upon the notice and in the manner provided in Article Two hereof; and generally shall be in the form set forth in the preambles hereof.

SECTION 2. All Bonds issued under this Indenture shall be executed on behalf of the Railway Company by

its President or one of its Vice-Presidents, under its corporate seal attested by its Secretary or an Assistant Secretary, and shall be delivered to the Corporate Trustee for authentication by it; and thereupon, as provided in this Indenture and not otherwise, the Corporate Trustee upon the written request of the Railway Company shall authenticate such Bonds and shall deliver the same to the Railway Company or upon its written order. No Bond and no coupon thereunto appertaining shall be valid or obligatory for any purpose or be secured by this Indenture or be entitled to any right or benefit hereunder, unless and until there shall have been endorsed upon such Bond by the Corporate Trustee a certificate of authentication substantially in the form hereinbefore recited.

In case any of the officers of the Railway Company who shall have signed and sealed any of the Bonds issuable under this Indenture shall cease to be such officers of the Railway Company before the Bonds so signed and sealed shall have been actually authenticated and delivered by the Corporate Trustee or issued, such Bonds, nevertheless, may be authenticated and delivered and issued as though the persons who signed and sealed such Bonds had not ceased to be officers of the Railway Company, and also any such Bond may be signed and sealed on behalf of the Railway Company by such persons as at the actual date of the execution of such Bond shall be the proper officers of the Railway Company, although at the nominal date of such Bond any such person shall not have been such officer of the Railway Company. The coupons to be attached to the Bonds shall bear the engraved facsimile of the signature of the present Treasurer or of any future Treasurer of the Railway Company, and the Railway Company may adopt and use for that purpose

the engraved facsimile of the signature of any person who shall have been such Treasurer, notwithstanding the fact that he may have ceased to be such Treasurer at the time when such Bonds shall be actually authenticated and delivered.

The Corporate Trustee shall not authenticate or deliver any Bonds unless all coupons thereto attached then matured, except coupons representing interest the payment of which has not been duly provided for, shall have been detached and cancelled, except as hereinafter in Section 4 of this Article otherwise provided.

SECTION 3. The Railway Company and the Trustees may deem and treat the bearer of any Bond, and the bearer of any coupon for interest on any Bond, as the absolute owner of such Bond, or coupon, for all purposes, and neither the Railway Company nor the Trustees shall be affected by any notice to the contrary.

SECTION 4. In case any Bond issued hereunder, with the coupons thereto appertaining, shall become mutilated or be lost, stolen or destroyed, the Railway Company, in the case of a mutilated Bond shall, and in the case of a lost, stolen or destroyed Bond may in its discretion, issue, and thereupon the Corporate Trustee shall authenticate and deliver, a new Bond with coupons of like tenor and date, bearing the same or other serial number or numbers, and bearing the same rights with respect to interest, in exchange and substitution for and upon cancellation of the mutilated Bond and its coupons, so mutilated, or in lieu of and substitution for the Bond and its coupons so lost, stolen or destroyed, upon the production of evidence satisfactory to the Railway Company

and the Corporate Trustee of the loss, theft or destruction of such Bond and its coupons, or that the mutilated Bond was one of the Bonds issued hereunder, as the case may be, and upon receipt by the Railway Company and the Corporate Trustee, respectively, of such indemnity as in their discretion they may require. The applicant for such substituted Bond shall pay all expenses, including counsel fees, in connection with the preparation and issue thereof.

SECTION 5. Pending the preparation of the definitive engraved Bonds to be presently issued hereunder, the Railway Company may execute and, upon the written request of the Railway Company, the Corporate Trustee shall authenticate and deliver in lieu of such definitive engraved Bonds, and subject to the same provisions, limitations and conditions, temporary Bonds in any denomination authorized substantially of the tenor of the definitive engraved Bonds in lieu of which they are to be issued, with or without coupons, and with appropriate omissions, insertions and variations as may be required. Such temporary Bonds shall be exchangeable, without expense to the holder, for the definitive engraved Bonds in lieu of which they are issued, and upon surrender and cancellation of such temporary Bonds, the Railway Company shall execute and the Corporate Trustee upon the written request of the Railway Company shall authenticate and deliver in exchange therefor definitive engraved Bonds for the same aggregate principal amount. Until so exchanged, the temporary Bonds in all respects shall be entitled to the same lien and security of this Indenture as the definitive engraved Bonds issued and authenticated hereunder.

SECTION 6. Upon the execution of this Indenture, the Railway Company shall execute and deliver to the Corporate Trustee Nineteen Million Two Hundred Thousand Dollars ($19,200,000) aggregate principal amount of Bonds, which shall be known as "First Mortgage Serial Bonds", and thereupon the Corporate Trustee without further action by the Board of Directors of the Railway Company and without awaiting the filing or recording of this Indenture shall authenticate said Bonds and deliver the same upon the written order of the Railway Company, signed in its name by its President or one of its Vice-Presidents.

ARTICLE TWO.

Redemption of Bonds.

SECTION 1. The Bonds shall be subject to redemption at the option of the Railway Company at the office of J. P. Morgan & Co. Incorporated, in the Borough of Manhattan, The City of New York, or at the office therein of any successor paying agent as follows: the Bonds as a whole, or the Bonds of any one or more series as a whole, may be redeemed before maturity at any time by payment of the respective redemption price or prices then applicable as hereinafter specified, together with the interest accrued on such Bonds to the date fixed for redemption, upon notice as hereinafter provided. The redemption price applicable to each Bond called for redemption shall be the principal amount thereof, plus a premium equal to twenty one-hundredths of one per cent. (20/100 of 1%) of such principal amount for each period of twelve months or a fraction thereof from the date fixed for the redemption of such Bond to the date

on which such Bond matures according to its terms. Notice of redemption shall be given by the Railway Company or on its behalf by publication in one daily newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, The City of New York, at least four times prior to the date fixed for such redemption, the first publication to be not less than forty-five days nor more than sixty days prior to the date fixed for such redemption.

SECTION 2. Publication of the notice of redemption having been completed as above provided, the Bonds so called for redemption shall become due and payable on the date and at the place in such notice specified, at the applicable redemption price, together with interest accrued to the date fixed for redemption, and on and after such date of redemption (unless the Railway Company shall make default in the payment of said Bonds at the redemption price or prices aforesaid) interest on the Bonds so called for redemption shall cease to accrue, and on presentation and surrender thereof at the place of payment and redemption in said notice specified with all unmatured coupons, if any, thereto appertaining, they shall be paid and redeemed by the Railway Company at the applicable redemption price aforesaid, together with interest accrued to the date fixed for redemption. In case there shall not be presented with any Bond called for redemption on an interest payment date the coupon for the interest maturing on such date, such Bond shall nevertheless be paid at the redemption price, and such interest shall be paid to the bearer of such coupon on presentation for payment. If Bonds called for re-

demption are not so paid and redeemed on presentation thereof, they shall continue to bear interest at the rate expressed therein until paid.

Whenever exercising the right of redemption, as provided for in this Article, the Railway Company shall furnish to J. P. Morgan & Co. Incorporated, or successor paying agent, a duly certified copy of a resolution of its Board of Directors or of the Executive Committee of such Board providing for such redemption.

SECTION 3. In any case where the redemption date shall be a Sunday or a legal holiday, payment of the redemption price and interest payable upon redemption may be made on the next succeeding day not a Sunday or a legal holiday with the same force and effect as if made on the nominal redemption date.

SECTION 4. All the Bonds redeemed and paid under the provisions of this Article, together with the appurtenant coupons, shall be cancelled by the paying agent and delivered by the paying agent to the Corporate Trustee, shall forthwith be cancelled by the Corporate Trustee and shall be cremated by the Corporate Trustee and certificates of cremation delivered by the Corporate Trustee to the Railway Company and to the paying agent, and no Bonds shall be issued in lieu thereof.

ARTICLE THREE.

Particular Covenants of the Railway Company.

The Railway Company covenants as follows:

SECTION 1. It will duly and punctually pay, or cause to be paid, the principal of, premium if any, and inter-

est on the Bonds, at the dates and place, and in the manner prescribed in the Bonds, or in the coupons thereto belonging, according to the true intent and meaning thereof. When and as paid, all such Bonds, together with the appurtenant coupons, shall forthwith be cancelled by the paying agent and delivered by the paying agent to the Corporate Trustee, shall forthwith be cancelled by the Corporate Trustee and the Bonds and coupons shall be cremated by the Corporate Trustee and certificates of cremation delivered by the Corporate Trustee to the Railway Company and to the paying agent, and no Bonds shall be issued in lieu thereof.

At all times until the payment of the principal of the Bonds issued hereunder, the Railway Company will maintain an office or agency in the Borough of Manhattan, The City of New York, where said Bonds and coupons may be presented for payment and where notices or demands in respect of any and all of the Bonds and coupons secured by this Indenture may be served. From time to time, the Railway Company will give notice to the Corporate Trustee of the location of such agency and of any change of location thereof, and in case the Railway Company shall fail to maintain any such agency or shall fail to give such notice of any change thereof, presentation and demand may be made and notices may be served at the principal office of the Corporate Trustee. Such office or agency shall be the office of J. P. Morgan & Co. Incorporated, unless and until the Railway Company shall designate another office or agency by notice in writing delivered to the Corporate Trustee.

SECTION 2. Whenever required by the Corporate Trustee, the Railway Company will grant, convey, con-

firm, assign, transfer and set over unto the Trustees the estate, right, title and interest of the Railway Company in or to all real and personal estate, rights and franchises which the Railway Company may hereafter acquire and which by the granting clauses of this Indenture are subjected to the lien of this Indenture or intended so to be, and it will also do, execute, acknowledge and deliver, or it will cause to be done, executed, acknowledged and delivered, all and every such further acts, deeds, transfers and assurances for the better assuring, conveying and confirming unto the Trustees all and singular the trust estate hereby mortgaged, or intended so to be, as the Corporate Trustee shall reasonably require for better accomplishing the provisions and purposes of this Indenture, and for securing payment of the principal and interest of the Bonds intended to be hereby secured.

The Railway Company will deliver to the Corporate Trustee annually in the month of January a certificate signed by its President or a Vice-President and by its Secretary or an Assistant Secretary setting forth in reasonable detail a description of any substantial items of real and personal estate, rights and franchises acquired within the previous calendar year. The Corporate Trustee shall be fully protected in accepting such certificate, shall have no duty of inquiry as to items of property acquired by the Railway Company except to require such certificates to be furnished, and shall be under no duty to require the granting, conveying, confirming, assigning, transferring and setting over unto the Trustees of any such property if furnished with an opinion of counsel, who may be of counsel for the Railway Company, that the same is unnecessary adequately to subject to the lien of this Indenture all items of property set forth in such certificate which by the granting clauses of this Indenture are intended to be so subjected.

The Railway Company is authorized to own and operate the lines of railroad as described in the granting clauses hereof, and covenants and agrees to execute any and all instruments and do any and all acts and things necessary or proper to perfect its title to the same or any thereof.

SECTION 3. The Railway Company covenants that it will not voluntarily create or suffer to be created any lien or charge, having priority or preference over or equality with the lien of this Indenture, upon the trust estate or upon any part thereof, or upon the income and profits thereof, and, within six months after the same shall accrue, it will pay, or cause to be discharged, or will make adequate provision for the satisfaction or discharge of, all lawful claims and demands of mechanics, laborers and others, which, if unpaid, might by law be given precedence to this Indenture as a lien or charge upon the trust estate, or any part thereof, or the income thereof.

Nothing in this Section contained shall require the Railway Company to acquire, pay or discharge any such claim, demand, debt, lien or charge, so long as the Railway Company in good faith shall contest the validity or the amount thereof, unless in the opinion of the Corporate Trustee such action might jeopardize the interests of the bondholders.

The Railway Company will deliver to the Corporate Trustee annually on or before March 15 of each year a certificate signed by its President or a Vice-President and

by its Secretary or an Assistant Secretary setting forth in reasonable detail a description of any such claims, demands, debts, liens or charges existing at December 31 of the year previous. The Corporate Trustee shall have no duty in respect of such certificates except to exhibit them on request to the holders of Bonds.

SECTION 4. The Railway Company, from time to time will pay and discharge all taxes, assessments and governmental charges, the lien of which would be prior to the lien hereof, lawfully imposed upon the trust estate at any time subject to the lien of this Indenture, or upon any part thereof, or upon the income and profits thereof, so that the lien and priority of this Indenture thereon shall be fully preserved at the cost of the Railway Company without expense to the Trustees or to the Bondholders in respect of such properties; and will also pay and discharge all taxes, assessments and governmental charges lawfully imposed upon the interest of the Trustees in the trust estate.

Nothing contained in this Section shall require the Railway Company to pay any such tax, assessment or charge so long as the Railway Company in good faith shall contest the validity or amount thereof, unless in the opinion of the Corporate Trustee such action might jeopardize the interests of the bondholders.

The Railway Company will deliver to the Corporate Trustee annually on or before March 15 of each year a certificate signed by its President or a Vice-President and by its Secretary or an Assistant Secretary setting forth in reasonable detail a description of any such taxes, assessments or charges existing at December 31 of the year previous. The Corporate Trustee shall have no duty in

respect of such certificates except to exhibit them on request to the holders of Bonds.

SECTION 5. If default shall be made in paying any sum which in Section 3 or 4 of this Article the Railway Company has covenanted to pay or discharge, the Corporate Trustee, without affecting any of its rights hereunder, from time to time in its discretion may pay any sum so in default, and all sums so advanced shall be at once repayable by the Railway Company and shall bear interest at such rate or rates as may be agreed upon, but not exceeding the rate of six per cent. (6%) per annum. Upon any such payments by the Corporate Trustee, it thereupon shall have and forthwith may assert a lien for such advances upon the trust estate and the proceeds thereof prior to the lien of the Bonds issued hereunder. No such advance shall be deemed to relieve the Railway Company from any default hereunder. In case the sums so advanced shall amount at any one time to as much as $300,000, the Corporate Trustee shall give notice of such advances and the purposes and amounts thereof by publication in one daily newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, The City of New York, at least once.

SECTION 6. The Railway Company shall diligently preserve all the rights and franchises to it granted and upon it conferred and shall, at all times, to the extent needful and proper for the efficient and economical operation of the properties of the Company, maintain, preserve and keep its said railroads in good repair, working order and condition, and shall, from time to time, make

all needful and proper repairs, renewals and replacements thereto.

The Railway Company will, to the extent needful and proper for the efficient and economical operation of the properties of the Company, keep and maintain in good order and condition, reasonable wear and tear excepted, all equipment upon which, or upon the Railway Company's interest in which, this Indenture shall be or become a lien, and the Railway Company will use and apply for that purpose so much of the earnings of the mortgaged railroads and property as may be required for such maintenance of such equipment and will at all times keep said mortgaged railroads supplied with sufficient equipment.

SECTION 7. In case any shares of stock, bonds, evidences of indebtedness or other securities are at any time pledged hereunder, the Railway Company will join with the Trustees in the execution of a supplemental indenture setting forth provisions for the control and release of such pledged securities in such form as may be at the time customary for the control and release of pledged securities under railroad mortgages. In case of any controversy between the Railway Company and the Trustees as to the terms of such supplemental indenture such controversy shall be finally and conclusively determined by any disinterested person who may be agreed upon by the Railway Company and the Corporate Trustee, or in the absence of such agreement, by an umpire to be selected by the presiding justice of the Appellate Division of the Supreme Court of the State of New York, First Department.

SECTION 8. The Railway Company will duly observe and perform its covenants and obligations contained in any writing executed by it as a supplement to this Indenture as herein authorized.

SECTION 9. The Railway Company with all convenient speed will duly record, register and file and re-record, re-register and refile this Indenture and every indenture supplemental hereto which hereafter may be executed as may be required by law in order to protect the lien hereof on the property covered hereby or intended so to be, and will pay any recording, registration or filing tax or fee legally due upon the recording of this Indenture or of any indenture supplemental hereto or due at any time upon or in connection with the issuance of the Bonds hereunder, and will make such statements and do such acts now or hereafter as are or shall be required by it to be made or done under any law affecting the recording thereof or of any supplemental indenture.

ARTICLE FOUR.

Remedies of Trustees and Bondholders.

SECTION 1. The Railway Company will not, directly or indirectly, extend or assent to the extension of the time for payment of any coupon or claim for interest on any of the Bonds hereby secured, and it will not, directly or indirectly, be a party to or approve any such arrangement by purchasing or funding said coupons or claims for interest or in any other manner. If the time for payment of any such coupon or claim for interest shall be so extended whether or not by or with the consent of the Railway Company, such coupon or claim for

interest shall not be entitled, in case of default hereunder, to the benefit of the security of this Indenture, except subject to the prior payment in full of the principal of all Bonds hereby secured and then outstanding and all coupons and interest on such Bonds the payment of which shall not have been extended; provided, however, that the foregoing provisions of this Section shall not be applicable to any coupon or claim for interest the time for the payment of which shall have been extended, if such extension be pursuant to a plan proposed by the Railway Company to all holders of Bonds secured hereby and then outstanding.

SECTION 2. If one or more of the following events, herein called the events of default, shall happen, that is to say:

(a) If default shall be made in the payment of any instalment of interest on any of the Bonds hereby secured when and as the same shall become payable, as therein expressed, and such default shall continue for ninety days; or

(b) If default shall be made in the payment of the principal of the Bonds hereby secured when the same shall become due and payable either by the terms thereof or otherwise as herein provided; or

(c) If default shall be made in the payment, observance or performance of any other of the covenants, conditions and agreements on the part of the Railway Company, its successors or assigns, in the Bonds hereby secured or in this Indenture or any indenture supplemental hereto contained, and such default shall continue for ninety days after written notice specifying such default shall

have been given to the Railway Company by the Corporate Trustee; which notice may be given by the Corporate Trustee in its discretion and shall be given on the written request of the holders of ten per cent. (10%) in principal amount of the Bonds hereby secured at the time outstanding; or

(d) If, by decree of a court of competent jurisdiction, the Railway Company shall be adjudicated a bankrupt, or an order shall be made approving a petition filed other than by the Railway Company seeking reorganization or readjustment of the Railway Company under the Federal Bankruptcy Laws, or other law or statute of the United States of America, or of any state thereof, or, by order of such court, entered otherwise than upon petition filed by, consented to or acquiesced in by the Railway Company, a trustee in bankruptcy or reorganization or a receiver shall be appointed of all or substantially all of the property of the Railway Company, and any such decree or order shall have continued unstayed on appeal or otherwise and in effect for a period of sixty days; or

(e) If the Railway Company shall file a petition in bankruptcy, or shall consent to or acquiesce in the appointment of a receiver of all or any part of its property, or shall file a petition seeking reorganization or readjustment under the Federal Bankruptcy Laws, or other law or statute of the United States of America, or other similar Federal or state law, or shall file an answer admitting the material allegations of any such petition filed by creditors, or shall file a petition to take advantage of any debtor's act;

then, and in each and every such case, the Trustees personally, or by their agents or attorneys, or (if, by writ-

ten notice to the Railway Company and to the Individual Trustee, the Corporate Trustee shall declare that it deems it advisable) the Individual Trustee only, personally or by his agents or attorneys, may enter into and upon all or any part of the mortgaged property, and each and every part thereof, and may exclude the Railway Company, its agents and servants, wholly therefrom, and having and holding the same may use, operate, manage and control said premises, and conduct the business thereof, either personally or by their, his or its agents, receivers or trustees, in such manner as the Trustee or Trustees in possession may deem to be to the best advantage of the holders of the Bonds hereby secured; and upon every such entry the Trustee or Trustees in possession at the expense of the trust estate, from time to time, either by purchase, repairs or construction, may maintain and restore, and insure and keep insured, the property and structures erected or provided for use in connection with said railways and other premises, in the same manner and to the same extent as is usual with railroad companies, and likewise from time to time, at the expense of the trust estate may make all necessary or proper repairs, renewals and replacements, and useful alterations, additions, betterments and improvements thereto and thereon, and purchase or otherwise secure the use of additional engines, rolling stock, tools, machinery and other property for use thereon, as to such Trustee or Trustees may seem judicious; and, in such case, the Trustee or Trustees in possession shall have the right to manage the trust estate and to carry on the business and exercise all rights and powers of the Railway Company, either in the name of the Railway Company or other-

wise, as such Trustee or Trustees shall deem best; and shall be entitled to collect and to receive all rates, fares, tolls, earnings, incomes, rents, issues and profits of the same and every part thereof, including the income from stock, bonds or other obligations subject to this Indenture; and after deducting the expenses of operating said railways and other premises, and of conducting the business thereof, and the cost of all repairs, maintenance, renewals, replacements, alterations, additions, betterments, and improvements, and all payments which may be made for taxes, assessments, insurance and prior or other proper charges upon the said premises and property, or any part thereof, as well as just and reasonable compensation for their services, and for all attorneys, counsel, agents, clerks, servants and other employees by the Trustee or Trustees properly engaged and employed, the Trustee or Trustees shall apply such moneys arising as aforesaid as follows:

(a) If the principal of none of the Bonds hereby secured shall have become due and be unpaid, to the payment of the interest in default, in the order of the maturity of the instalments of such interest, with interest on such overdue instalments of interest at the rate of four per cent. (4%) per annum, such payments to be made ratably to the persons entitled thereto, without discrimination or preference;

(b) If the principal of any of the Bonds hereby secured shall have become due, by declaration or otherwise, and shall be unpaid, *first*, to the payment of any interest in default on the Bonds, in the order of the maturity of the instalments of such interest, with interest on such overdue instalments of interest at the rate of four per cent. (4%) per

annum, and, *second* (subject to the provisions of Section 3 of this Article) to the payment of the principal of all Bonds; in every instance such payments to be made ratably to the persons entitled to such payment, without any discrimination or preference.

These provisions, however, are not intended in any wise to modify the provisions of Section 1 of this Article.

SECTION 3. In case one or more of the events of default described in Section 2 of this Article shall happen, then, during the continuance of such default, the Corporate Trustee may and, upon the written request of the holders of twenty-five per cent. (25%) in principal amount of the Bonds hereby secured then outstanding, the Corporate Trustee shall, by notice in writing delivered to the Railway Company, declare the principal of all Bonds hereby secured and then outstanding to be due and payable immediately, and upon any such declaration the same shall become and be immediately due and payable, anything in this Indenture or in said Bonds contained to the contrary notwithstanding. This provision, however, is subject to the condition, that, if at any time after the principal of said Bonds shall have been so declared due and payable, and before any sale of the mortgaged property shall have been made, all arrears of interest upon all such Bonds, and the expenses of the Trustees, their agents and attorneys, shall either be paid by the Railway Company, or be collected out of the trust estate before any sale of the trust estate shall have been made, and all other defaults made good to the satisfaction of the Corporate Trustee, then and in every such case the holders of a majority in principal

amount of the Bonds hereby secured then outstanding, by written notice to the Railway Company and to the Corporate Trustee, may waive such default or defaults and its or their consequences and annul such declaration of the maturity of the principal of the Bonds; but no such waiver shall extend to or affect any subsequent default, or impair any right consequent thereon.

In case the Trustees or either of them shall have proceeded to enforce any right under this Indenture, by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned because of such waiver, or for any other reason, or shall have been determined adversely to the Trustees, then and in every such case the Railway Company and the Trustees shall be restored to their former position and rights hereunder in respect of the trust estate and all rights, remedies and powers of the Trustees and of the Railway Company shall continue as though no such proceedings had been taken.

SECTION 4. If one or more of the events of default described in Section 2 of this Article shall happen, and shall be continuing, the Trustees (or, if the Corporate Trustee deems it advisable, the Individual Trustee alone), with or without entry, personally or by attorney, in their or his discretion may

(a) Sell to the highest bidder, all and singular the trust estate, property and premises, rights, franchises and interests and appurtenances, and other real and personal property of every kind covered by this Indenture, and all right, title and interest, claim and demand therein, and right of redemption thereof, in one lot and as an entirety,

unless a sale in parcels shall be required under the provisions of Section 6 of this Article, in which case such sale may be made in parcels as in said Section provided; which sale or sales shall be made at public auction at such place in the City of Duluth, in the State of Minnesota, or at such other place, and at such time and upon such terms, as the Trustees or Individual Trustee, as the case may be, may fix and briefly specify in the notice of sale to be given as hereinafter in Section 7 of this Article provided; or

(b) Proceed to protect and enforce the rights of the Trustees and the rights of the holders of the Bonds secured by this Indenture by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or for the foreclosure of this Indenture, or for the enforcement of any other appropriate legal or equitable remedy, as the Trustees or either of them acting therein, being advised by counsel, shall deem most effectual to protect and enforce any of their rights or duties hereunder.

Upon the written request of the holders of twenty-five per cent. (25%) in principal amount of the Bonds hereby secured and then outstanding delivered to the Corporate Trustee, in case of any default made and continued as aforesaid, it shall be the duty of the Trustees, upon being indemnified as hereinafter provided, to take all needful steps for the protection and enforcement of their rights and the rights of the holders of the Bonds hereby secured, and to exercise the powers of entry or sale herein conferred, or both, or to take appropriate judicial proceedings by action, suit or otherwise, as the Corporate Trustee, being advised by counsel, shall

deem most expedient in the interest of the holders of the Bonds hereby secured.

Section 5. Anything in this Indenture contained to the contrary notwithstanding, the holders of a majority in principal amount of the Bonds hereby secured and then outstanding, from time to time, shall have the right to direct and to control the method and place of conducting any and all proceedings for any sale of the premises hereby conveyed, mortgaged and pledged.

Section 6. In the event of any sale, whether made under the power of sale hereby granted and conferred, or under or by virtue of judicial proceedings, or of some judgment or decree of foreclosure and sale, the whole of the trust estate shall be sold in one parcel, and as an entirety, unless the holders of a majority in principal amount of the Bonds hereby secured then outstanding shall in writing delivered to the Corporate Trustee request the Trustees to cause said premises to be sold in parcels, in which case the sale shall be made in such parcels as may be specified in such request, or unless such sale as an entirety is impracticable by reason of some statute or other cause; and this provision shall bind the parties hereto and each and every of the holders of the Bonds and coupons hereby secured or intended so to be.

Section 7. Notice of any such sale pursuant to any provision of this Indenture, shall state the time and place when and where the same is to be made, and shall contain a brief general description of the property to be sold, and shall be sufficiently given if published once in each

week for four successive weeks prior to such sale in a daily newspaper printed in the English language and published and of general circulation in the City of Duluth, in the State of Minnesota, and in a daily newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, in The City of New York, and, upon compliance with the terms of sale, may hold, retain and dispose of such property without further accountability therefor.

Section 14. The Railway Company covenants that (1) if default shall be made in the payment of any interest on any Bond at any time outstanding and secured by this Indenture, and such default shall have continued for ninety days, or (2) if default shall be made in the payment of the principal of any of such Bonds when the same shall become payable, whether at the maturity of said Bonds, or by declaration as authorized by this Indenture, or by a sale of the trust estate as hereinbefore provided, then upon demand of the Corporate Trustee the Railway Company agrees to pay to the Trustees for the benefit of the holders of the Bonds and coupons hereby secured, then outstanding, the whole amount then due and payable on such Bonds and coupons then outstanding, for interest or principal, or both, as the case may be; and in case the Railway Company shall fail to pay the same forthwith upon such demand, the Trustees, or either of them (the other having in writing given assent thereto), in their, his or its own name or names and as the trustee or trustees of an express trust, shall be entitled to recover judgment for the whole amount so due and unpaid.

The Trustees or either of them shall be entitled to recover judgment as aforesaid, either before, or after,

rate Trustee, shall join in executing all necessary deeds of conveyance and instruments of assignment and transfer.

Any such sale or sales made under, or by virtue of, this Indenture, whether under the power of sale hereby granted and conferred, or under or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in

for the enforcement of the provisions of this

or the foreclosure of the lien thereof; and in case of a sale of the trust estate and of the application of the proceeds of sale to the payment of the debt hereby secured, the Trustees or either of them (the other having in writing given assent thereto), in their, his or its own name or names, and as trustee or trustees of an express trust, shall be entitled to enforce payment of, and to receive, all amounts then remaining due and unpaid upon any and all of the Bonds hereby secured, and then outstanding, for the benefit of the holders thereof, and shall be entitled to recover judgment for any portion of the mortgage debt remaining unpaid, with interest. No recovery of any such judgment by the Trustees or either of them, and no levy of any execution upon any such judgment upon property subject to the lien of this Indenture or upon any other property, shall in any manner, or to any extent, affect the lien of this Indenture or of the Trustees upon the trust estate or any part thereof, or any rights, powers or remedies of the Trustees hereunder, or any rights, powers or remedies of the holders of the Bonds hereby secured; but such lien, rights, powers and remedies shall continue unimpaired as before.

Any moneys collected by the Trustees or either of them under this Section shall be applied by the Trustees, first to the payment of the costs and expenses of the proceedings resulting in the collection of such moneys, and of the expenses paid or incurred by the Trustees or either

of them acting herein in theretofore managing and maintaining the trust estate, and then to the payment of the amounts then due and unpaid upon such Bonds for principal and interest, respectively, without any preference or priority of any kind, subject to the provisions of Section 1 of this Article, and ratably according to the amounts due and payable upon such Bonds for principal and instalments of interest, respectively, at the date fixed by the Trustees or either of them acting therein, for the distribution of such money, upon presentation of the several Bonds and coupons and noting such payment thereon, if partly paid, and upon surrender thereof, if fully paid.

SECTION 15. The Railway Company will not at any time insist upon or plead, or in any manner whatever claim, or take the benefit or advantage of any stay or extension law now or at any time hereafter in force in any locality where the trust estate, or any part thereof, may or shall be situate, nor will it claim, take, or insist on, any benefit or advantage from any law now or hereafter in force, providing for the valuation, or appraisement, of the trust estate, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provision herein contained, or to the decree, judgment or order of any court of competent jurisdiction, nor after any such sale or sales will it claim or exercise any right under any statute enacted by any Commonwealth or State or the United States to redeem the property so sold or any part thereof; and it hereby expressly waives all benefit and advantage of any such law or laws; and it covenants that it will not hinder, delay or impede the execution of any power herein granted or delegated to the Trustees, but that it will suffer and permit the execu-

tion of every such power, as though no such law or laws had been made or enacted.

SECTION 16. If, in the event of a default by the Railway Company of the character and continuance indicated in Section 2 of this Article, a bill in equity shall be filed or any other judicial proceedings commenced to enforce any right of the Trustees or of the bondholders under this Indenture, then as matter of right, the Trustees shall be entitled to the appointment of a receiver of the trust estate and of the earnings, income, revenue, rents, issues or profits thereof, with such powers as the court making such appointment shall confer, but notwithstanding the appointment of any such receiver, the Trustees or either of them acting therein, as pledgees, shall be entitled to continue to retain possession and control of any stocks, bonds, obligations, cash and other property pledged or to be pledged with the Trustees or either of them hereunder.

SECTION 17. If the Railway Company shall make default in any of the respects mentioned in Section 2 of this Article, and (1) at any time during the continuance of such default there shall be any existing judgment against the Railway Company unsatisfied and unsecured by bond on appeal; or (2) in any judicial proceeding referred to in paragraphs (d) or (e) of Section 2 of this Article any court of competent jurisdiction shall have taken under its control, whether through a receiver, trustee or otherwise the property of the Railway Company, or a judgment or order be entered for the sequestration of its property; or (3) in case of default in payment of interest specified in subdivision (a) of said Section 2 of this Article, the Railway Company shall

admit to the Corporate Trustee its inability to make good such default within the period of grace in said Section mentioned; the Trustees, without waiting the period of grace, if any, in said Section 2 specified in respect of such default, shall thereupon be entitled forthwith to exercise the right of entry herein conferred, and also any and all other rights and powers herein conferred and provided to be exercised by the Trustees upon the occurrence and continuance of default as hereinbefore provided, and as a matter of right the Trustees shall thereupon be entitled (a) to the appointment of a receiver of the trust estate, and of the earnings, income, revenue, rents, issues and profits thereof, with such powers as the court making such appointment shall confer, (b) to the entry of an order directing that the rents, issues, tolls, profits and other income of the premises and property described in or covered by the lien hereof be segregated, sequestered and impounded from and after the date of the institution of any judicial proceeding of the nature referred to in paragraphs (d) and (e) of Section 2 of this Article, for the benefit of the Trustees and the bondholders.

The Railway Company hereby irrevocably consents to the appointment of such receiver or the entry of such order, as the case may be.

SECTION 18. With the consent of the Corporate Trustee, at any time before full payment of the Bonds hereby secured, and whenever the Railway Company shall deem it expedient for the better protection and security of such Bonds, although there be then no default entitling the Trustees to exercise the rights and powers conferred by Section 2 of this Article, the Railway Company may sur-

render and deliver to the Trustees or either of them full possession of the whole or any part of the trust estate then being in the possession of the Railway Company, for any period fixed or indefinite. Upon such surrender and delivery to the Trustees or either of them, the Trustees or (if the Corporate Trustee shall deem it advisable) the Individual Trustee may enter into and upon the property and premises so surrendered and delivered, and may take and receive possession thereof, for such period fixed or indefinite, as aforesaid, without prejudice, however, to their, his or its right at any time subsequently, when entitled thereto by any provision hereof, to insist upon and to maintain such possession, though beyond the expiration of any prescribed period. Upon any such voluntary surrender and delivery of said property and premises, or of any part thereof, the Trustee or Trustees in possession, from the time of entry, may work, maintain, use, manage, control and employ the same in accordance with the provisions of this Indenture and may receive and apply the income and revenues thereof as provided in Section 2 of this Article. Upon application of the Trustees or either of them acting therein and with the consent of the Railway Company, if then there be no continuing default such as is specified in said Section 2 of this Article, and without such consent, if then there shall be such a continuing default, a receiver may be appointed to take possession of, and to operate, maintain and manage, the whole or any part of the property subject to this Indenture, and the Railway Company shall transfer and deliver to such receiver all such property, wheresoever the same may be situated; and in every case, when a receiver of the whole or any part of said property shall be appointed under this Section 18, or other-

wise, the net income and profits of such property shall be paid over to, and shall be received by, such Trustee or Trustees for the benefit of the holders of the Bonds, ratably and without preference or priority of any kind; *provided, however*, that notwithstanding the appointment of any such receiver, such Trustee or Trustees, as pledgee or pledgees, shall be entitled to retain possession and control of any stocks, bonds, obligations, cash and other property pledged or to be pledged with the Trustees or either of them hereunder.

SECTION 19. No holder of any Bond or coupon hereby secured shall have any right to institute any suit, action or proceeding in equity or at law for the foreclosure of this Indenture, or for the execution of any trust thereof, or for relief of the character referred to in paragraphs (d) and (e) of Section 2 of this Article, including the appointment of a receiver or trustee, or for any other remedy hereunder, unless such holder previously shall have given to the Trustees written notice of such default and of the continuance thereof, as hereinbefore provided, nor unless, also, the holders of twenty-five per cent. (25%) in principal amount of the Bonds hereby secured then outstanding shall have made written request upon the Trustees and shall have offered to them reasonable opportunity, either to proceed to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in their own names; nor unless, also, they shall have offered to the Trustees reasonable security and indemnity to them against the costs, expenses and liabilities to be incurred therein or thereby, nor unless the Trustees shall have refused or neglected to act upon such notification, request and offer of indemnity; and

such notification, request and offer of indemnity are hereby declared, in every such case, at the option of the Trustees, to be conditions precedent to the execution of the powers and trusts of this Indenture and to any action, or cause of action, for foreclosure or relief of the character referred to in paragraphs (d) and (e) of Section 2 of this Article, including the appointment of a receiver or trustee, or for any other remedy hereunder; it being understood and intended that no one or more holders of Bonds and coupons shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the lien of this Indenture or to enforce any right hereunder, except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided, and for the equal benefit of all holders of such outstanding Bonds and coupons. All rights of action under this Indenture may be enforced by the Trustees or either of them without the possession of any of the Bonds or coupons hereby secured or the production thereof on the trial or other proceedings relative thereto, and any such suit or proceedings instituted by the Trustees or either of them shall be brought in their or its or his names or name, as Trustees or Trustee; and any recovery of judgment shall be for the ratable benefit of the holders of said Bonds and coupons and any other obligations hereby secured.

SECTION 20. Except as herein expressly provided to the contrary no remedy herein conferred upon, or reserved to the Trustees, or to the holders of Bonds or coupons hereby secured, is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative, and shall be in addition to every other

remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

SECTION 21. No delay or omission of the Trustees or either of them, or of any holder of Bonds or coupons hereby secured, to exercise any right or power accruing upon any default continuing as aforesaid shall impair any such right or power, or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by this Article to the Trustees or to the bondholders, may be exercised from time to time, and as often as may be deemed expedient, by the Trustees or by the bondholders severally and respectively.

SECTION 22. The Trustees shall have power to institute and maintain suits or proceedings to restrain the enforcement of, or compliance with, or the observance of, any legislative or governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of, or compliance with, or observance of, such enactment, rule or order would in the judgment of the Trustees impair the security hereunder or be prejudicial to the Trustees or to the holders of the indebtedness hereby secured.

SECTION 23. The Corporate Trustee is hereby irrevocably appointed (and the successive respective holders of Bonds and interest coupons issued hereunder, by taking and holding the same, shall be conclusively deemed to have so appointed the Corporate Trustee) the true and lawful attorney-in-fact of the respective holders of the Bonds and interest coupons issued hereunder, with authority to make or file, irrespective of whether the Bonds or any of them are in default as to payment of

principal or interest, in the respective names of the holders of the Bonds or interest coupons, or in behalf of all holders of the Bonds or interest coupons as a class, any proof of debt, amendment to proof of debt, petition or other document, to receive payment of any sums becoming distributable on account thereof, and to execute any other papers and documents and to do and perform any and all acts and things for and in behalf of the respective holders of the Bonds or interest coupons, or in behalf of all such holders as a class, as may be necessary or advisable, in the opinion of the Corporate Trustee, in order to have the respective claims of the holders of the Bonds or interest coupons against the Railway Company allowed in any equity receivership, insolvency, liquidation, bankruptcy, debtor reorganization or other proceedings to which the Railway Company shall be a party, and to receive payment of or on account of such claims; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized by each of the bondholders to make such payments to the Corporate Trustee, and, in the event that the Corporate Trustee shall consent to the making of such payments directly to the bondholders, to pay to the Corporate Trustee any amount due it for compensation and expenses, including counsel fees, incurred by it up to the date of such distribution.

SECTION 24. For the purposes of this Article, any Bonds which have been authenticated by the Corporate Trustee but never disposed of by the Railway Company, or which, although disposed of by the Railway Company, have been returned to or reacquired by it and are held in its treasury, shall not be deemed to be outstanding or entitled to the security or benefits hereof.

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ARTICLE FIVE.

Immunity of Stockholders, Officers and Directors.

No recourse under or upon any obligation, covenant or agreement of this Indenture or in any Bond or because of the creation of any indebtedness secured by this Indenture shall be had against any incorporator, stockholder, officer or director, as such, past, present or future, of the Railway Company or of any successor corporation either directly or through the Railway Company, or any other person, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty, or otherwise, it being expressly agreed and understood that this Indenture and the obligations hereby secured are solely corporate obligations, and that any and all personal liability of every name and nature and any and all rights and claims against each and every incorporator, stockholder, officer or director, as such, past, present or future, of the Railway Company, or of any successor corporation, arising under or by reason of the Bonds or this Indenture, whether arising at common law or in equity or created by statute or constitution, are hereby expressly waived and released as a condition of, and as a part of the consideration for, the execution of this Indenture and the issue of the Bonds.

ARTICLE SIX.

Bondholders Acts, Holdings and Apparent Authority.

Any demand, request or other instrument required by this Indenture to be signed and executed by bondholders may be in any number of concurrent writings

of similar tenor, and may be signed or executed by such bondholder in person or by agent appointed in writing. Proof of the execution of any such demand, request or other instrument, or of a writing appointing any such agent and of the ownership by any person of Bonds, shall be sufficient for any purpose of this Indenture, and may be received as conclusive by the Corporate Trustee if made in accordance with the provisions of this Article.

The fact and date of the execution of any such demand, request or other instrument or writing may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds that the person executing such document had acknowledged the act to such officer, or by an affidavit of a witness to such execution.

The fact of the holding by any person of Bonds, and the amounts and distinctive numbers of such Bonds, and the date of such holding (which holding the Trustees may deem to continue until the Corporate Trustee shall have received notice in writing to the contrary), may be proved by a certificate executed by any trust company, bank, banker or other depositary, wherever situated, if such certificate shall be deemed by the Corporate Trustee to be satisfactory, setting forth that on the date therein mentioned such person had on deposit with such depositary the Bonds described in such certificate; or such facts may be proved by the certificate or affidavit of such person, if such proof shall be satisfactory to the Corporate Trustee.

The fact of date and execution of any demand, request or other instrument, and the amount and numbers of Bonds held by the person by or for whom such request or other instrument is executed may also be proved in

any other manner which the Corporate Trustee may deem sufficient.

Any request, consent or vote of the holder of any Bond shall bind all future holders of the same Bond, and of Bonds issued in exchange therefor or in place thereof, in respect of anything done, omitted or suffered by the Trustees in pursuance of such request, consent or vote.

ARTICLE SEVEN.

Releases of Mortgaged Property.

SECTION 1. From time to time the Railway Company, subject to the conditions and limitations in this Article prescribed, and not otherwise, may sell, exchange for other property or otherwise dispose of, and the Trustees, upon the delivery to the Corporate Trustee of the resolutions, opinion and certificates as in Sections 3 or 4 of this Article provided, shall release from the lien and operation of this Indenture:

(a) Any part of the lines of railroad which are or shall be at any time subject to this Indenture or any leasehold, easement, trackage right or other interest or undivided or part interest therein, or any part thereof, which is or shall be at any time subject to this Indenture, *provided*:

(1) that in the judgment of the Board of Directors of the Railway Company, evidenced by resolution of said Board delivered to the Corporate Trustee, it shall no longer be necessary or expedient to retain such part of said lines of railroad or such leasehold, easement, trackage right or other interest or undivided or part interest therein, or part thereof, as a part of the

system of the railroads subject to this Indenture, as aforesaid;

(2) that in the judgment of the Board of Directors of the Railway Company, similarly evidenced, the Railway Company is not thereby prevented from maintaining and operating over lines of railroad subject in whole or in part to this Indenture or owned by an affiliated company or a company jointly owned by the Railway Company and another company or companies engaged in railroad transportation, a continuous main line railroad system substantially as direct and available for transportation purposes as the continuous railroad system maintained and operated by the Railway Company at the date of execution and delivery of this Indenture, or that in the judgment of the Corporate Trustee the release so requested will not adversely affect to a material degree the security for the Bonds or the interests of the bondholders. In exercising such judgment or any similar judgment under this Article the Corporate Trustee shall be entitled to rely on the opinion of an independent engineer or other recognized independent authority to be selected by the Corporate Trustee to the effect that the proposed action will not adversely affect to a material degree the security for the Bonds or the interests of the bondholders;

(b) Any real estate or other property and any rights or interests in property, including air rights, not hereinafter in this Article specifically mentioned, which, in the judgment of the Board of Directors of the Railway Company, evidenced by resolution of said Board delivered to the Corporate Trustee, as aforesaid, it shall no longer be necessary or expedient to retain for the operation,

maintenance or use of the lines of railroad then subject to this Indenture, or for use in the business of the Railway Company.

SECTION 2. The Railway Company may at any time, provided the general integrity and continuity of its lines be not broken thereby, make any change in location of its lines, tracks, station houses, buildings, or other structures situated upon any part of the trust estate, and in case of a change in location to premises not subject to the lien of this Indenture, the Trustees, subject to the provisions of Section 3 of this Article, at the request of the Railway Company and upon subjection to the lien of this Indenture of such premises and the new or relocated lines, tracks, station houses, buildings, or other structures erected thereon, shall release from the lien of this Indenture the premises upon which the lines, tracks, station houses, buildings or other structures were originally located, and any part of such lines, tracks, station houses, buildings or other structures unremoved and remaining thereon, and shall execute and deliver any and all instruments necessary and proper to effect such purpose.

SECTION 3. Whenever requesting action by the Trustees pursuant to the foregoing Sections of this Article, the Railway Company shall deliver to the Corporate Trustee, in addition to the resolution required by Section 1 of this Article:

(1) A certified copy of resolutions of the Board of Directors of the Railway Company requesting the release of the property sold, exchanged or otherwise disposed of;

(2) A certificate signed by the President or a Vice-President and by the Chief Engineer and by the Comptroller, Auditor or other chief accounting officer of the Railway Company, which shall set forth:

(a) A description of the property a release of which is requested;

(b) The selling price of the property a release of which is requested, or a description of the property, if any, to be received in exchange for the property a release of which is requested or to be substituted therefor;

(c) The fair value of the property a release of which is requested; and if any property is to be received in exchange, or is to be substituted therefor, the fair value thereof; and

(d) Such additional matters as it shall be necessary to establish in order to show that the release of the property forming the subject of such request is authorized under the provisions and restrictions of this Article;

(3) A certificate or opinion signed by the General Counsel or General Solicitor of the Railway Company, stating that the action so requested is authorized by the provisions of this Article, and that the resolutions and certificates furnished to the Corporate Trustee in connection therewith are in compliance with the provisions of this Section 3;

(4) If the property a release of which is requested is to be sold, the consideration received therefor or the fair value of such property, whichever is greater; and if such property is to be exchanged or other property substituted therefor,

the amount, if any, by which the fair value of the property a release of which is requested exceeds the fair value of the property to be received in exchange or to be substituted therefor.

SECTION 4. (a) The Trustees shall, from time to time, release from the lien of this Indenture any franchise or portion thereof which shall have been or is to be surrendered by the Railway Company, and any tracks, rights-of-way, structures, leasehold interests and trackage or other rights which shall have been or are to be removed or abandoned by it, *provided:*

(1) that such surrender of franchise or such removal or abandonment of tracks, structures, leasehold interests and trackage or other rights shall be or shall have been made pursuant to, where such authority is lawfully required to be obtained, the authority of the Interstate Commerce Commission or other public authority having jurisdiction in the premises or by virtue of or pursuant to an agreement with a state, municipality or other division or subdivision of a state, or by virtue of or pursuant to legal requirement;

(2) that the Railway Company, so far as may be permitted by law, shall retain all franchises, tracks, structures, leasehold interests and trackage or other rights necessary or proper to entitle it to maintain and operate a continuous railroad system in the manner set forth in sub-paragraph (2) of paragraph (a) of Section 1 of this Article except to the extent that in the judgment of the Corporate Trustee, exercised as in said subparagraph (2) of paragraph (a) provided, failure to retain the same will not adversely affect to a material degree the security for the Bonds or the interests of the bondholders;

(3) that the revenues or benefits received from the exercise of such franchise or the use or operation of such tracks, structures, leasehold interests and trackage or other rights are not sufficient to justify the continued exercise of such franchise or the continued use or operation of such tracks, structures, leasehold interests and trackage or other rights.

(b) Whenever requesting any action under this Section the Railway Company shall deliver to the Corporate Trustee:

(1) A certified copy of resolutions of the Board of Directors of the Railway Company requesting the release of the property so surrendered, removed or abandoned;

(2) A certificate signed by the President or a Vice-President and by the Chief Engineer and by the Comptroller, Auditor or other chief accounting officer of the Railway Company, which shall state:

(i) that after such surrender, removal or abandonment the Railway Company, so far as permitted by law, has retained or will retain, as the case may be, all franchises, tracks, structures, leasehold interests, trackage or other rights necessary or proper to enable it to maintain and operate a continuous railroad system in the manner set forth in sub-paragraph (2) of paragraph (a) of Section 1 of this Article, except to the extent that in the judgment of the Corporate Trustee (exercised as aforesaid) failure to retain the same will not adversely affect to a material degree the security for the Bonds or the interests of the bondholders;

(ii) that the revenues or benefits received from the exercise of such franchise or from the

use or operation of such tracks, structures, leasehold interests and trackage or other rights are not sufficient to justify the continued exercise of such franchise or the continued use or operation of such tracks, structures, leasehold interests and trackage or other rights; and

(iii) if any of the franchises or other property so surrendered, removed or abandoned are sold by the Railway Company, the salvage value thereof and the consideration received or to be received therefor; and if any of such franchises or other property are exchanged by the Railway Company, the salvage value thereof and the fair value of the property, franchises or other rights to be received in exchange therefor;

(3) A certificate or opinion signed by the General Counsel or General Solicitor of the Railway Company stating either (1) that such surrender, removal or abandonment has been or will be made pursuant to the authority of the Interstate Commerce Commission or other public authority having jurisdiction in the premises or by virtue of or pursuant to an agreement with a state, municipality or other division or subdivision of a state, or by virtue of or pursuant to legal requirement (in which event the Corporate Trustee shall also be furnished with a certified copy of the order relating thereto of the Interstate Commerce Commission or other public authority or of the agreement relating thereto, if any there be); or (2) that no such authority is lawfully required to be obtained;

(4) If any of the franchises or other property so surrendered, removed or abandoned are sold by the Railway Company, the salvage value thereof or the consideration received therefor, whichever is greater; and if any of such franchises or other

property are exchanged by the Railway Company, the amount, if any, by which the fair value of the franchises or other property so surrendered, removed or abandoned exceeds the fair value of the property, franchises or other rights to be received in exchange therefor.

Section 5. The Railway Company may from time to time sell, exchange or otherwise dispose of free from the lien of this Indenture and without release by the Trustees, any of the property at any time subject to the lien hereof and not used or useful for railroad purposes, not exceeding in any one calendar year a total of Fifty Thousand Dollars ($50,000) in value at the date of disposition, the Railway Company agreeing in each case that it shall expend the proceeds of any such sale or other disposal to replace the property so sold or otherwise disposed of by other property not necessarily of the same character which in its judgment is of at least equal value and utility, and that all such substituted property and all property received in exchange for property which was subject to the lien hereof, which shall be at least of equal value and utility to the property which was subject to the lien hereof, shall forthwith or by appropriate supplemental indenture become subject to the lien hereof.

In order to clear the title of record of the property sold, exchanged or otherwise disposed of in accordance with this Section the Trustees shall from time to time, at the request of the Railway Company, execute and deliver confirmatory releases or certificates that such property is free from the lien of this Indenture upon receipt by the Corporate Trustee of a certificate signed by the President or a Vice-President and the Secretary or an Assistant Secretary of the Railway Company

specifying the property to be released, stating that it is not used or useful for railroad purposes and stating the value of all property theretofore sold, exchanged or otherwise disposed of by the Railway Company pursuant to the terms of this Section within the calendar year in which the request for release is made.

The Railway Company will deliver annually on or before March 15 to the Corporate Trustee a certificate signed by its President or a Vice-President and by its Secretary or an Assistant Secretary setting forth in detail all property and the value thereof sold, exchanged or otherwise disposed of free from the lien of this Indenture within the previous calendar year and all replacements of such property so sold or otherwise disposed of.

Section 6. If by final decree of any court having jurisdiction in the premises the Railway Company shall be required to part with the ownership, possession or operation of any portion or portions of the trust estate, then in that event the portion or portions with which it may be so required to part shall, notwithstanding the foregoing provisions of this Article, be released from the lien of this Indenture,

(a) if the Trustees are parties to the action or proceeding in which such decree shall have been entered, then on such terms and conditions as in such decree may be prescribed; or

(b) if the Trustees shall not be parties to such action or proceeding, then on such terms and conditions as may be satisfactory to the Corporate Trustee in its discretion, or on such terms and conditions as may be prescribed by the decree of any court of competent jurisdiction in an action or proceeding brought by the Trustees or to which they are parties; and

(c) upon receipt by the Corporate Trustee of any consideration received by the Railway Company for the portion or portions of the trust estate so to be released or upon making arrangements satisfactory to the Corporate Trustee for the subsequent receipt by the Corporate Trustee of such consideration.

Section 7. The resolutions, opinions and certificates hereinbefore provided to be furnished to the Corporate Trustee may be received by the Trustees as conclusive evidence of any of the facts or of the continuance of any condition or of anything by this Article required to be established or shown in order to authorize the action sought in respect of any property forming the subject of such resolutions, opinions and certificates, and shall be full warrant to the Trustees for any action taken on the faith thereof, but the Corporate Trustee, in its discretion, may require, at the cost and expense of the Railway Company, such further and additional evidence as to it may seem reasonable.

Section 8. The Railway Company shall have full power in its discretion and without notice to or action by the Trustees or either of them from time to time

(a) (1) To alter, remove, demolish or retire from service any building or structure or mine or industrial spur or other property on the trust estate which may have become unfit or undesirable for use or which it may deem necessary to alter, remove, demolish or retire in connection with the maintenance or operation of or in the improvement of the trust estate, and (2) to dispose of any portion of the fixtures, equipment, machinery, apparatus, implements, furniture, materials, sup-

plies and portable personal property at any time held subject to the lien hereof, which may have become obsolete or otherwise unfit or undesirable for use or which it may not be necessary or advantageous longer to retain for use upon the trust estate; in each case replacing the same with, or substituting therefor, other properties, not necessarily of the same character but having a value at least equal to the then value of the old property at the time of its disposition or, if it be sold, to the consideration therefor received by the Railway Company, and such new property shall become subject to the lien of this Indenture;

(b) To make any lease of, or to grant trackage rights upon, the trust estate, or any part thereof, or to enter into any contract affecting the same, subject to the prior lien of this Indenture, but nothing in this Section contained shall be construed as giving the Railway Company power to make any such lease, or to grant any such trackage rights, or to enter into any such contract, unless such lease, trackage rights or contract shall be subordinate to the prior lien of this Indenture;

(c) To make changes or alterations in, or substitutions for, any leases, trackage rights, agreements or contracts, the rights of the Railway Company under which are subject to this Indenture; *provided*, that the Railway Company is not thereby prevented (except to an extent which in the judgment of the Corporate Trustee, exercised as hereinabove in this Article provided, will not adversely affect to a material degree the security for the Bonds or the interests of the bondholders) from maintaining and operating a continuous railroad system in the manner set forth in subparagraph (2) of Paragraph (a) of Section 1 of this Article. Any changed, amended, or supplemental lease,

trackage rights or contract forthwith shall be subject to this Indenture in the same manner and to the same extent as that previously existing.

SECTION 9. All moneys received for property released as provided in this Article, and all moneys receivable as compensation for any property subject to this Indenture taken by the exercise of the power of eminent domain, and any and all other moneys at any time receivable by the Trustees, except to the extent that any such moneys shall be applied in accordance with the provisions of this Indenture particularly applicable thereto, shall be received and held by the Corporate Trustee as part of the trust estate and, if no event of default shall have happened and be continuing, at the request of the Railway Company shall be applied by the Corporate Trustee from time to time as hereinafter provided to the purchase of Bonds secured by this Indenture and then outstanding, at a price or prices not exceeding the fair market value thereof at the time of purchase, or the then current redemption price of the Bonds purchased, whichever is less, or to the redemption of Bonds in the manner specified in Article Two of this Indenture, or may be paid over to the Railway Company by the Corporate Trustee, upon the conditions hereinafter set forth, in reimbursement for expenditures made by the Railway Company for additions, betterments or improvements to the mortgaged property, used or useful upon or in connection with the railroads of the Railway Company and subject to the lien of this Indenture as a first lien.

(1) In case the Railway Company shall desire any such moneys to be applied by the Corporate Trustee to the purchase of Bonds the Railway Company shall deliver

or cause to be delivered to the Corporate Trustee the following instruments:

(a) A copy of a resolution of the Board of Directors of the Railway Company in form satisfactory to the Corporate Trustee, certified by the Secretary or an Assistant Secretary of the Railway Company under its corporate seal, requesting the Corporate Trustee to apply a specified amount of such moneys to the purchase of a specified aggregate principal amount of Bonds issued and outstanding hereunder, the serial numbers of which Bonds shall be set forth in the resolution;

(b) The Bonds described in said resolution, having attached thereto any and all interest coupons then unmatured;

(c) A statement, in form satisfactory to the Corporate Trustee, signed by the President or a Vice-President and the Treasurer or an Assistant Treasurer of the Railway Company, certifying (1) that the Bonds so delivered had previously been actually negotiated by the Railway Company for value; (2) that the Railway Company had *bona fide* purchased or contracted to purchase said Bonds at prices (exclusive of accrued interest) to be set forth in said statement; and (3) that the Railway Company is not, so far as is known to the officers signing such statement, in default with respect to the performance or observance of any covenant or agreement contained in this Indenture.

Upon delivery to the Corporate Trustee of the instruments required by the foregoing provisions of this paragraph, the Corporate Trustee shall pay to or upon the order of the Railway Company, signed by its Treasurer or an Assistant Treasurer, from the moneys then held by it hereunder, the sum specified in said resolution, pro-

vided, that such sum shall in no event exceed the aggregate price paid or payable for said Bonds as set forth in the statement then delivered to the Corporate Trustee or the redemption price of such Bonds then payable, if that be lower.

(2) In case the Railway Company shall desire any such moneys to be applied by the Corporate Trustee to the redemption of Bonds, the Railway Company shall deliver to the Corporate Trustee the following:

(a) A copy of a resolution of the Board of Directors of the Railway Company in form satisfactory to the Corporate Trustee, certified by the Secretary or an Assistant Secretary of the Railway Company under its corporate seal, requesting the Corporate Trustee to apply, on a date to be specified therein (which date shall not be less than sixty days after the date of the receipt of said resolution by the Corporate Trustee), a specified amount of such moneys to the redemption of one or more series of Bonds issued hereunder designated in said resolution;

(b) Cash in such amount which, together with such specified amount of moneys held by the Corporate Trustee, shall be sufficient to redeem on the specified date or dates the designated one or more series as a whole;

(c) A certificate, in form satisfactory to the Corporate Trustee, signed by the President or a Vice-President and the Treasurer or an Assistant Treasurer of the Railway Company, certifying that the Railway Company is not, so far as is known to the officers signing such certificate, in default with respect to the performance or observance of any covenant or agreement contained in this Indenture.

Upon delivery to the Corporate Trustee of the instruments and cash, if any, required by the foregoing provisions of this paragraph, the Corporate Trustee shall set aside the amount specified in said resolution. The Railway Company shall thereupon cause notice of redemption of the Bonds of the one or more series so designated to be given by publication in substantially the manner provided in Article Two hereof for the redemption of Bonds, and with like effect, and, on and after the redemption date, the Corporate Trustee shall apply the said moneys to the redemption of such Bonds in accordance with the provisions relating thereto, provided accrued interest on such Bonds to the date fixed for redemption be provided by the Railway Company otherwise than out of such moneys. The paying agent or the Railway Company will forthwith deliver to the Corporate Trustee any Bonds so redeemed which shall come into the possession of the paying agent or the Railway Company.

All Bonds secured by this Indenture so purchased or redeemed shall be cancelled by the Corporate Trustee and the Bonds and coupons shall be cremated by the Corporate Trustee and certificates of cremation delivered by the Corporate Trustee to the Railway Company and to the paying agent, and no Bonds shall be issued in lieu thereof.

(3) In case the Railway Company shall desire any such moneys to be applied by the Corporate Trustee in reimbursement for expenditures made by the Railway Company for additions, betterments or improvements to the mortgaged property, the Corporate Trustee shall pay such moneys to or upon the written order of the Railway Company signed by its President or a Vice-President requesting such payment and accompanied by the certificate or certificates in this Section hereinafter specified and the opinion or opinions of counsel in Section 10 of this Article specified. Such payments shall be made in a sum not exceeding the cost or the fair value at the time of the application, whichever is less, of the property acquired or of additions, betterments or improvements to the mortgaged property as set forth in the certificate or certificates hereinafter in this Section specified.

The certificate or certificates to be delivered to the Corporate Trustee shall be signed by the President or a Vice-President, the Chief Engineer and also by the Comptroller, Auditor or other chief accounting officer of the Railway Company, shall be dated not more than sixty days prior to the date of the application to the Corporate Trustee, and shall state:

(a) That moneys to an amount specified in said application of the Railway Company have been actually expended for property acquired or for additions, betterments or improvements to the mortgaged property, describing briefly each particular purpose and specifying the amount of money actually expended for each of said stated purposes;

(b) That the amount of said respective expenditures indicated in such certificate is not in excess of the cost or the then fair value, whichever is less, of the property constructed or acquired or the work done;

(c) That such certified expenditures have not been reimbursed or provided for out of the proceeds of insurance or insurance reserves or by the payment of deposited cash to the Railway Company under any provision of this Indenture or

under any provisions of any prior mortgage, or out of the proceeds of any prior debt;

(d) That no part of such certified expenditures was or will be properly chargeable to the operating or maintenance expenses of the Railway Company and that all of such expenditures are properly chargeable to capital account;

(e) That such expenditures have been made for acquisition of property or for the making of additions, betterments and improvements subsequent to December 31, 1945, and within five years of the date of such application; and

(f) That the Railway Company is not, so far as is known to the officers signing such statement, in default with respect to the performance or observance of any covenant or agreement in this Indenture.

SECTION 10. Any property or rights received by the Railway Company in exchange or substitution for any property or rights released from the lien of this Indenture or which are made the basis of the withdrawal of deposited moneys shall be and become subject to this Indenture as a first lien as fully as if specifically mortgaged hereby, but, if requested by the Corporate Trustee, the Railway Company will convey the same to the Trustees, or declare the Trustees' interest therein, by appropriate deeds, assignments or declarations upon the trusts and for the purposes of this Indenture, and the Railway Company shall furnish to the Corporate Trustee a written opinion of counsel, who may be counsel for the Railway Company, to the effect that such deeds, assignments or declarations are sufficient for that purpose, or in lieu thereof that no such deeds, assignments or declarations are necessary for such purpose.

SECTION 11. The purchaser of any property released shall not be required to see to the application of the purchase money.

SECTION 12. In case the trust estate shall be in possession of a receiver or a trustee in bankruptcy or a trustee in reorganization proceedings, the powers conferred by this Article upon the Railway Company may be exercised by the receiver or trustee with the approval of the Trustees, and if the Trustees or either of them shall be in possession of the trust estate under any provision of this Indenture, then all the powers by this Article conferred upon the Railway Company may be exercised by the Trustees or Trustee so in possession, in their or its or his discretion, as the case may be. In case of the exercise of said powers by a receiver or trustee, such receiver or trustee shall deliver to the Corporate Trustee, in lieu of the resolutions, certificates and opinions by this Article required to be delivered to the Corporate Trustee by the Railway Company, appropriate orders of court, certificates of such receiver or trustee and opinion of counsel to such receiver or trustee.

SECTION 13. Anything in this Article to the contrary notwithstanding, the Trustees may, but shall not be required to, release from the lien of this Indenture any property subject to the lien hereof as in and by this Article provided for, notwithstanding that at the time such release be requested, any of the events of default enumerated in Section 2 of Article Four of this Indenture shall have happened and be continuing, but the provisions of this Section are not intended to limit or affect the provisions of Section 12 of this Article.

ARTICLE EIGHT.

Concerning the Trustees.

SECTION 1. The Trustees accept the trust hereby created but only upon the following terms and conditions, to all of which the Railway Company and all of the holders of the Bonds at any time outstanding, by their acceptance thereof, agree:

(a) The recitals herein and in the Bonds contained shall be taken as the statements of the Railway Company and the Trustees assume no responsibility for the correctness of the same. The Trustees make no representation as to the value or condition of the mortgaged property or any part thereof or as to the security afforded thereby and hereby, or as to the validity of the lien of this Indenture or as to the validity of the Bonds issued hereunder, and the Trustees shall incur no responsibility in respect of any such matters.

(b) The Trustees shall be under no duty to file, register or record or cause to be filed, registered or recorded this Indenture, or any supplement thereto, as a mortgage, conveyance or transfer of real or personal property or otherwise or to refile, re-register or re-record or renew the same, and the holders of all the Bonds at any time issued and outstanding hereunder release the Trustees of and from their failure so to file, register or record or refile, re-register or re-record or renew this Indenture or any such supplement and the bondholders shall rely solely upon the Railway Company and not upon the Trustees for said filing or registering or recording or refiling or re-registering or re-recording or renewing. The Trustees shall be under no duty to procure or renew nor be liable for

any failure of the Railway Company to procure or renew insurance or for the responsibility of insurers or for the failure of the Railway Company to pay any tax or taxes with respect of the mortgaged property or any part thereof or otherwise, nor shall the Trustees be under any duty with respect to any tax which may be assessed against either or both of them or against the holders or owners of the Bonds outstanding hereunder, in respect of the mortgaged property. The Trustees shall be under no responsibility or duty with respect to the disposition of the Bonds authenticated and delivered hereunder or the application of the proceeds thereof or of any moneys paid to the Railway Company under any of the provisions hereof.

Should any taxes or other governmental charges be imposed upon the Trustees or either of them, in its or their capacity as Trustee or Trustees hereunder, which they or either of them may be required to pay under any present or future law of the United States of America or of any other authority therein having jurisdiction, the Trustees shall be reimbursed and indemnified therefor and any liability incurred or amounts paid by the Trustees in respect of any such taxes or other governmental charges, until paid, shall constitute a lien upon the mortgaged property prior to any claim by the holders of Bonds.

(c) The Trustees may execute any of the trusts under this Indenture or exercise any of the powers hereby vested in the Trustees or either of them or perform any duty hereunder either themselves or by or through their attorneys, agents, or employees, and the Trustees shall not be answerable or accountable for any act, default, neglect or misconduct of any such attorneys, agents or employees provided reasonable care has been exercised in the

selection thereof, nor shall the Trustees be otherwise answerable or accountable under any circumstances whatsoever, except for their own individual negligence or bad faith. The Trustees shall not be under any obligation or duty to perform any act hereunder or to institute, appear in or defend any suit in respect hereof unless first reasonably indemnified. The Trustees may conclusively assume that there has been no default hereunder unless and until the Trustees shall have been specifically notified in writing of said default by the Railway Company or by the holder of any Bond then outstanding. The Trustees or either of them shall not be under any obligation to take any action in respect of any default or otherwise or toward the execution or enforcement of any of the trusts hereby created or to institute, appear in or defend any suit or other proceeding in connection therewith, unless one or more of the holders of the Bonds shall, as often as required by the Trustees, or either of them, furnish them, it or him with reasonable security and indemnity against the cost and expenses of said proceeding; but this provision shall not affect any discretionary power herein given to the Trustees or either of them to determine whether or not the Trustees or either of them shall take action in respect of such default or otherwise.

(d) Except as herein otherwise provided, any notice or demand which by any provision of this Indenture is required or permitted to be given or served by the Trustees or either of them on the Railway Company, shall be deemed to have been sufficiently given and served for all purposes by being deposited postage prepaid in a United States post office letter box or mailchute, addressed (until another address is filed by the Railway Company with the Corporate Trustee) as follows: Duluth,

Missabe and Iron Range Railway Company, Wolvin Building, Duluth 2, Minnesota.

(e) The Trustees shall not be bound to recognize any person as the holder of a Bond outstanding hereunder unless and until the Bond is submitted to the Corporate Trustee for inspection if required, and the title thereto established to the satisfaction of the Corporate Trustee, if disputed.

(f) The Trustees shall be protected with respect to any action taken, suffered or omitted by them or either of them in reliance upon any notice, resolution, request, waiver, consent, order, certificate, statement, affidavit, indemnity bond, report, appraisal, opinion, telegram, cablegram, radiogram, letter, bond or other paper, document or instrument believed by them to be genuine and to have been signed, sent or presented by the proper party or parties. The Trustees or either of them may consult with counsel (who may be of counsel for the Railway Company) and the opinion of said counsel shall be full and complete authority and protection in respect of any action taken, suffered or omitted by them, it or him hereunder in good faith and in accordance with the opinion of said counsel and shall be conclusive upon the Railway Company and upon all holders of the Bonds. The Trustees or either of them shall not be under any responsibility for the selection, appointment or approval of any accountant, appraiser, counsel or other nominee for any of the purposes expressed in this Indenture, provided that the Trustees or either of them shall have exercised due care in any such selection, appointment or approval made by them or either of them.

(g) Upon any application for the payment of any moneys held by the Trustees or either of them under any provision of this Indenture or for the

execution of any release or upon any other application to the Trustees hereunder, the resolutions, certificates, statements, appraisals, opinions, reports, orders and other papers required by any of the provisions of this Indenture to be delivered to the Corporate Trustee as a condition of the granting of said application, may be received by the Trustees as conclusive evidence of any statement or opinion therein contained and shall be full warrant, authority and protection to the Trustees acting on the faith thereof not only in respect of the statements therein made but also in respect of the opinions therein set forth. Before granting any application the Trustees shall not be under any duty to make any further investigation into the matters appearing to them to be covered by any such resolution, certificate, statement, appraisal, opinion, report, order or other paper, but if requested so to do by writing delivered to the Corporate Trustee, prior to action had thereon, by the holders of not less than ten per cent. (10%) in principal amount of the outstanding Bonds, and only if furnished with security and indemnity satisfactory to it against the costs and expenses of the investigation, the Corporate Trustee shall make such further investigation as to it may seem proper; but it may in its discretion make any such independent inquiry or investigation as it may see fit. If the Corporate Trustee shall determine or shall be requested as aforesaid to make said further investigation, it shall be entitled to examine the books, records and premises of the Railway Company itself or by agent or attorney; and unless the Trustees shall be satisfied with or without said examination of the truth and accuracy of the matters stated in said resolution, certificate, statement, appraisal, opinion, report, order or other paper, the Trustees shall not be under any obligation to

grant the application. If after said examination or other inquiry the Trustees shall determine to grant the application, they shall not be liable for any action taken with due care and in good faith. The reasonable expense of every examination shall be paid by the Railway Company, or if paid by the Trustees or either of them, shall be repaid by the Railway Company upon demand, with interest at such rate or rates as may be agreed upon, but not exceeding the rate of six per cent. (6%) per annum, and until said repayment, shall be secured by a lien on the mortgaged property and the proceeds thereof, prior to the lien of the Bonds issued hereunder.

(h) The Railway Company covenants and agrees to pay to the Trustees from time to time on demand of the Trustees reasonable compensation (which shall not be limited by any provision of law with respect to the compensation of fiduciaries or of the trustee of an express trust) for all services rendered by the Trustees hereunder and also all their reasonable expenses and counsel fees and other disbursements and those of their attorneys, agents and employees incurred in and by the administration and execution of the trusts hereby created and the exercise of their powers and the performance of their duties hereunder. In default of payment by the Railway Company, the Trustees and each of them shall have a lien therefor on the mortgaged property and the proceeds thereof, prior to the lien of the Bonds issued hereunder.

(i) Whenever in the administration of the trusts of this Indenture the Trustees or either of them shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, said matter (unless other evidence in respect thereof

be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate signed by the President or a Vice-President and the Treasurer or Secretary or an Assistant Treasurer or Assistant Secretary of the Railway Company and bearing the corporate seal of the Railway Company and delivered to the Corporate Trustee, and said certificate shall be full warrant to the Trustees for any action taken, suffered or omitted by them on the faith thereof, unless the Trustees or either of them shall have failed to exercise due care in the acceptance thereof, but in their discretion the Trustees may in lieu thereof accept other evidence of the fact or matter or may require such further or additional evidence as may seem reasonable.

(j) The Corporate Trustee shall be under no duty to invest any moneys paid to or deposited with it or to its credit, pursuant to any of the provisions of this Indenture, and shall not be liable for interest on any such moneys during the period such moneys shall remain on deposit with it, except such interest as the Corporate Trustee may agree on with the Railway Company.

(k) The Trustees or either of them or any company in or with which the Trustees or either of them may be interested or affiliated, or any officer or director or trustee or stockholder of the Corporate Trustee or of any such company, may acquire and hold Bonds issued hereunder, or may engage in or be interested in any financial or other transaction with the Railway Company or any corporation in which the Railway Company may be interested, and the Corporate Trustee may act as depositary, trustee, transfer agent, registrar or agent for the Railway Company or for any committee or other body, firm or corporation in respect

of any bonds, notes or other securities, whether or not issued pursuant hereto.

(l) Any action at any time taken by the Trustees or either of them pursuant to or with respect to this Indenture, at the request or with the consent or approval (expressed or implied) of any person who at the time is the holder of any Bond secured hereby, shall be conclusive and binding upon all future holders of such Bond.

(m) The Corporate Trustee may construe any of the provisions of this Indenture, insofar as the same may appear to be ambiguous or inconsistent with any other of such provisions; and any construction so placed upon any provision hereof by the Corporate Trustee in good faith and in accordance with the advice of counsel (who may be of counsel to the Railway Company) shall be binding upon the Railway Company and upon all holders of the Bonds.

(n) All rights of action under this Indenture may be enforced by the Trustees or either of them, without the possession of any of the Bonds or the production thereof on the trial or other proceedings relative thereto.

(o) No implied covenant shall be read into this Indenture against the Trustees, or either of them, but the duties of the Trustees to the Railway Company and all others shall be determined solely by the provisions of this Indenture; and all questions or controversies as to the liability of the Trustees hereunder shall be governed by the laws of the State of New York and no action, suit or other legal proceeding against the Trustees or either of them shall be instituted or conducted in any court in any other state or country, except with the written consent of the Trustees.

(p) The Trustees shall not be liable for anything which they or either of them may do or refrain from doing in connection herewith, except for their own negligence or bad faith.

SECTION 2. Any moneys which at any time shall be deposited under this Indenture with the Corporate Trustee by or for the account of the Railway Company shall be held in trust by the Corporate Trustee until paid conformably with the provisions of this Indenture.

SECTION 3. The Corporate Trustee or any successor Corporate Trustee may at any time resign and be discharged of the trusts hereby created by giving written notice to the Railway Company and thereafter publishing notice thereof specifying a date when the resignation shall take effect, once a week for two successive weeks in a daily newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, The City of New York, and the resignation shall take effect on the day specified in the notice, unless previously a successor Corporate Trustee shall have been appointed by the bondholders or the Railway Company as hereinafter provided, in which event the resignation shall take effect immediately upon the appointment of said successor Corporate Trustee.

The Individual Trustee may at any time resign by giving notice thereof to the Corporate Trustee and to the Railway Company, specifying the date on which such resignation shall take effect.

Any Trustee may be removed at any time by the holders of two-thirds in principal amount of the Bonds hereby secured, then outstanding, by an instrument or

concurrent instruments signed by such bondholders or their attorneys-in-fact duly authorized.

Any Trustee so removed shall be entitled to reasonable compensation, then accrued and unpaid, and the reimbursement of proper expenses theretofore incurred and not previously reimbursed.

For the purposes of this Section and of Section 4 of this Article, any Bonds which have been authenticated by the Corporate Trustee but never disposed of by the Railway Company, or which, although disposed of by the Railway Company, have been returned to or reacquired by it and are held in its treasury, shall not be deemed to be outstanding.

SECTION 4. In case at any time the Corporate Trustee shall resign or shall be removed or shall become incapable of acting or shall be adjudged bankrupt or insolvent, or if a receiver of the Corporate Trustee or of any successor or of its property shall be appointed, or if any public officer in the exercise of his official powers shall take charge or control of the Corporate Trustee or of any successor or of its property or affairs, at any time within one year after the happening of any of said events, a successor hereunder may be appointed by the holders of a majority in principal amount of the Bonds then outstanding hereunder, by an instrument or concurrent instruments in writing signed and acknowledged by said bondholders or by their attorneys-in-fact duly authorized, and delivered to such new corporate trustee hereunder, notification thereof being given to the Railway Company and the predecessor corporate trustee; *provided, however,* that until a new corporate trustee shall be appointed hereunder by the bond-

holders as aforesaid the Railway Company by instrument executed by order of its Board of Directors and duly acknowledged by its proper officers may appoint a corporate trustee hereunder to fill the vacancy until a new corporate trustee hereunder shall be appointed by the bondholders, as herein authorized. The Railway Company shall publish notice of any such appointment by it made once in each week for two consecutive weeks in a daily newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, The City of New York. Any such new corporate trustee appointed by the Railway Company shall immediately and without further act be superseded by a corporate trustee hereunder appointed by the bondholders as above provided.

Every trustee appointed in succession to the Corporate Trustee, or its successor in the trust, shall be a trust company or a banking corporation having an office in the Borough of Manhattan, The City of New York, in good standing and having a capital and surplus aggregating at least $2,000,000, if there be such a trust company or banking corporation qualified, able and willing to accept the trust upon reasonable or customary terms.

In case at any time the Individual Trustee shall resign or be removed or otherwise become incapable of acting, a successor to such Individual Trustee may be appointed by an instrument in writing executed by the Railway Company, notification thereof being given to the Corporate Trustee; *provided, however,* that if the Railway Company shall not make such appointment within thirty days after written request therefor by the Corporate Trustee, the Corporate Trustee may make

such appointment by an instrument in writing executed by itself.

If in a proper case no appointment of a successor trustee shall be made pursuant to the foregoing provisions of this Section 4 within one year after the happening of any of the events set forth in the first paragraph of this Section 4, the holder of any Bond outstanding hereunder or any retiring trustee hereunder may apply to any court of competent jurisdiction to appoint a successor trustee. Said court may thereupon, after such notice, if any, as said court may deem proper and prescribe, appoint a successor trustee.

Any successor trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor trustee and also to the Railway Company an instrument accepting the appointment hereunder, and thereupon said successor trustee without any further act, deed or conveyance shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor in trust hereunder, with like effect as if originally named as trustee herein; but the retiring trustee shall nevertheless on the written request of the Railway Company or of the successor trustee and upon payment of its unpaid compensation and expenses, if any, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in said successor trustee all the right, title and interest of the retiring trustee which it succeeds, in and to the mortgaged property and said rights, powers, trusts, duties and obligations; and the retiring trustee shall also upon like request and payment of its unpaid compensation and expenses, as aforesaid, pay over, assign

and deliver to the successor trustee any money and other property subject to the lien of this Indenture. Should any deed, conveyance or instrument in writing from the Railway Company be required by the new trustee for more fully and certainly vesting in and confirming to the new trustee said estates, rights, powers and duties, any and all said deeds, conveyances and instruments in writing shall on request be executed, acknowledged and delivered by the Railway Company.

SECTION 5. Any corporation into which the Corporate Trustee may be merged or converted, or with which it may be consolidated, or any corporation resulting from any merger, conversion, consolidation or reorganization to which the Corporate Trustee shall be a party, or any corporation succeeding to the banking business of the Corporate Trustee, shall be the successor corporate trustee under this Indenture without the execution or filing of any paper or the performance of any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

SECTION 6. The grant in this Indenture to the Trustees is subject to the following terms and conditions in respect of the rights and powers of the Corporate Trustee and the Individual Trustee, respectively, and every successor trustee hereunder shall be appointed subject to such terms and conditions, viz.:

(1) That the Bonds secured hereby shall be authenticated and delivered, and all powers conferred upon the Corporate Trustee under this Indenture shall be exercised, solely by the bank named as one of the parties hereto of the second

part, or a company which shall have been constituted and shall be acting as its successor in the trust hereunder;

(2) That the custody of all stocks, bonds and other property and cash pledged with or to be deposited with or held by the Trustees under this Indenture, and all rights, powers and duties with respect to the administration, management and disposition thereof, including the rights, powers and duties vested in the Corporate Trustee, under this Indenture, shall not vest in the Individual Trustee, but shall remain vested solely in the Corporate Trustee;

(3) That no powers shall be exercised hereunder by the Individual Trustee, except jointly with, or with the consent in writing of, the Corporate Trustee;

(4) That the Railway Company and the Corporate Trustee, at any time, by an instrument in writing executed by them jointly, may remove the Individual Trustee;

(5) That in case of the happening of any of the events of default specified in Section 2 of Article Four hereof, the Corporate Trustee, by an instrument in writing executed by it without the concurrence of the Railway Company, may remove the Individual Trustee and may appoint a successor or successors;

(6) That any notice, request or other writing by or in behalf of any holders of the Bonds, delivered to the Corporate Trustee, shall be deemed delivered to any and all the trustees hereunder as effectually as if delivered to each of them;

(7) That until the principal indebtedness secured by this Indenture, or some part thereof,

shall become payable under the provisions therein or herein contained, or until under the provisions hereof the Trustees shall become entitled to enter upon the mortgaged premises, any action or exercise of rights, powers or duties of the Trustees hereunder, and at any time in any case where power so to do is expressly granted in this Indenture, including the power to declare due the principal of the Bonds secured hereby, if taken by the Corporate Trustee alone, and without any action on the part of any other trustee, shall be sufficient for the purposes of this Indenture; and

(8) That any request in writing by the Corporate Trustee, shall be sufficient warrant to the Individual Trustee, to take such action as may be so requested.

The Individual Trustee herein named has been joined as trustee in order to comply with any statutory requirements that may now or hereafter be in force respecting trustees under deeds of trust of property in localities in which the mortgaged premises or part thereof are or may be situated, and the Individual Trustee shall possess such powers and such powers only as may be necessary to comply with such requirements. In case, by the repeal or removal of such requirements or for any other reason, it shall not be necessary or prudent in the judgment of the Corporate Trustee that one of the Trustees shall be a natural person, then on the demand of the Corporate Trustee, the Individual Trustee shall resign as such trustee by writing duly acknowledged for record and delivered to the Corporate Trustee, and thereupon all powers of the Individual Trustee shall terminate, as shall his right, title and interest in and to the mortgaged premises.

Every instrument appointing a successor to the Individual Trustee shall refer to this Indenture and the conditions in this Article expressed; and upon the acceptance in writing by such successor, he shall be vested with the estates and property specified in such instrument, either jointly with the Corporate Trustee, or separately, as may be provided, subject to all the trusts, conditions and covenants of this Indenture.

Any rights, powers, duties and obligations by any provisions under this Indenture conferred or imposed upon the Trustees or either of them shall, in so far as permitted by law, be conferred or imposed upon or exercised or performed by the Corporate Trustee alone without reference to the Individual Trustee, and the Individual Trustee hereby irrevocably constitutes and appoints the Corporate Trustee his true and lawful attorney in fact with full power and authority, in so far as permitted by law, either in the name and on behalf of the Individual Trustee or of the Trustees jointly, to exercise any and all rights or powers conferred upon the Individual Trustee alone or upon the Trustees jointly, by any of the provisions of this Indenture, but subject to the duties hereby imposed upon the Individual Trustee, hereby ratifying and confirming all and singular the acts and things lawfully done by the Corporate Trustee by virtue of this power of attorney, except to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed by the Corporate Trustee it shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties and obligations shall be exercised and performed by the Individual Trustee.

In case the Individual Trustee shall die, resign, or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of the Trustees hereunder, so far as permitted by law, shall *ipso facto* vest in and be exercised by the Corporate Trustee or its successor in the trust, without the appointment of any trustee or successor to the Individual Trustee.

SECTION 7. In case the Corporate Trustee shall by reason of the law of any State or other jurisdiction in which the Trustees may be required to act under the terms of this Indenture be unqualified, unauthorized, unable or incompetent to exercise any of the powers granted to the Trustees under this Indenture or to perform any of the duties imposed on the Trustees hereby, or shall decline to exercise any such power, or perform any such duty, then and in any such case, upon written notice and consent by the Corporate Trustee to the Individual Trustee, the Individual Trustee shall have and may exercise any such power in the place of the Trustees, and shall be authorized to perform any such duty in that State or jurisdiction, and shall be possessed of such rights and powers as may be necessary to the effectual operation of the trusts herein set forth. The Corporate Trustee shall be under no duty to request the Individual Trustee to act as above provided unless it shall have declined to act itself or shall have received an opinion of its counsel to the effect that it is unqualified, unauthorized, unable or incompetent to act in any given instance, and the Corporate Trustee shall be under no liability for failure to make such request prior to so declining or to receiving such opinion of counsel.

ARTICLE NINE.

Possession Until Default—Defeasance Clause.

SECTION 1. Unless and until (1) a receiver or a trustee shall have entered into possession of the trust estate or part thereof; (2) the Trustees or either of them shall have entered into possession of the trust estate or part thereof under the powers in this Indenture granted; or (3) some one of the events of default enumerated in Section 2 of Article Four of this Indenture shall have happened and be continuing,—and such event of default shall have continued for the period, if any, therein specified in respect thereof,—the Railway Company, its successors and assigns, shall be suffered and permitted to retain actual possession of all of the trust estate, except stocks, bonds, obligations, cash and other property pledged or to be pledged with the Trustees hereunder, and to manage, operate and use the same and every part thereof with the rights and franchises appertaining thereto, and to collect, receive, take, use and enjoy the rents, earnings, income, issues and profits thereof.

SECTION 2. If, when the Bonds hereby secured shall become due and payable at maturity, upon call for redemption, by declaration or otherwise, the Railway Company shall well and truly pay or cause to be paid the whole amount of the principal and premium, if any, and interest due and payable upon all of such Bonds and the coupons for interest thereon, or shall provide for such payment by depositing with the Corporate Trustee hereunder in trust for the payment of such Bonds and coupons

the amount due and payable for principal and premium, if any, and interest, or shall at any time cause all of the Bonds and coupons thereto appertaining, then outstanding, to be extinguished and surrender the same to the Corporate Trustee for cancellation, and shall also pay or cause to be paid all other sums payable hereunder by the Railway Company, and shall well and truly keep and perform all things herein required to be kept and performed by it, according to the true intent and meaning of this Indenture, then and in that case all property, rights and interests hereby conveyed, assigned or pledged shall revert to the Railway Company, its successors or assigns, and the estate, right, title and interest of the Trustees shall thereupon cease and determine and become void; and the Trustees in such case, on written demand of the Railway Company, its successors or assigns, and at its or their cost or expense, shall enter satisfaction of this Indenture upon the records, and shall assign and transfer or cause to be assigned and transferred, and shall deliver or cause to be delivered to the Railway Company, its successors or assigns, all moneys (other than moneys deposited with the Corporate Trustee under this Section or previously deposited for the payment of coupons or claims for interest) and all personal and other property then held by the trustees or either of them hereunder; otherwise the same shall be continued and remain in full force and effect. Subject to Section 2 of Article Thirteen hereof, all moneys deposited with the Corporate Trustee under this Section shall be held by the Corporate Trustee as a trust deposit and applied by it to the payment of the Bonds issued hereunder and secured hereby and the coupons appertaining thereto in respect of which such moneys shall have been deposited. In no event shall the holders of such Bonds or coupons appertaining thereto be entitled to interest upon such money.

All Bonds and coupons appertaining thereto, paid hereunder, shall be canceled by the Corporate Trustee and all Bonds and coupons shall be cremated by the Corporate Trustee and certificates of such cremation delivered by the Corporate Trustee to the Railway Company and to the paying agent.

ARTICLE TEN.

Consolidation, Merger, Conveyance and Lease.

SECTION 1. Nothing contained in this Indenture or in any Bond issued or to be issued hereunder shall prevent any consolidation or merger of the Railway Company with or into any other corporation lawfully entitled to acquire and operate the trust estate, or any conveyance or lease (subject to the continuing lien of this Indenture and to all provisions hereof and of any and all indentures supplemental hereto) of the trust estate as a whole or substantially as a whole to any other such corporation, or shall prevent successive similar consolidations, mergers, conveyances or leases to which the Railway Company or any successor shall be a party; *provided, however,* that every such consolidation, merger, conveyance or lease shall be upon such terms as shall fully preserve and in no respects impair the lien and security of this Indenture or any of the rights and powers of the Trustees or of the bondholders hereunder; and *provided, further,* that any such lease shall be made expressly subject to immediate termination by the Trustees at any time upon

the happening of an event of default as defined in Section 2 of Article Four hereof or upon any sale of the property so leased under the power of sale herein conferred or pursuant to judicial proceedings; and *provided, further,* that immediately upon any such consolidation, merger or conveyance, the due and punctual payment of the principal and interest of all Bonds issued and to be issued hereunder according to their tenor and purport and the due and punctual performance and observance of all of the covenants, terms and conditions of this Indenture and of any and all indentures supplemental hereto, to be kept, observed and performed by the Railway Company, shall, by an indenture supplemental hereto, executed and delivered to the Trustees, be expressly assumed by the successor corporation formed by or resulting from any such merger or consolidation, or to which any such conveyance shall have been made.

SECTION 2. In the absence of an express grant by the successor corporation, this Indenture shall not by reason of any such consolidation, merger or conveyance or otherwise, constitute or become a lien upon, and the term "trust estate" as used herein shall not include or comprise:

(1) Any property or franchise owned prior to such consolidation, merger or conveyance by any corporation with or into which the Railway Company or any successor corporation may be consolidated or merged or to which the Railway Company or any successor corporation may make any such conveyance, and which prior to such consolidation, merger or conveyance was not subject to the lien of this Indenture; excepting, only, property or franchises in the Counties of St. Louis, Itasca,

Lake and Carlton in the State of Minnesota and in the County of Douglas in the State of Wisconsin; or

(2) Any property or franchise which may be purchased, constructed or otherwise acquired by the successor corporation after the date of any such consolidation, merger or conveyance; excepting, only, (i) property or franchises in the Counties of St. Louis, Itasca, Lake and Carlton in the State of Minnesota and in the County of Douglas in the State of Wisconsin, and (ii) the betterments, extensions, improvements, additions, repairs, renewals, replacements, substitutions, alterations, property and franchises, mentioned and referred to in Clauses (a), (b) and (c) hereinafter contained in this Section, all of which, as and when purchased, constructed or otherwise acquired by such successor corporation, shall be and become subject to the lien and operation of this Indenture, notwithstanding any such consolidation, merger or conveyance.

In order to confirm of record the lien of this Indenture and to preserve and protect the rights of the bondholders hereunder, the supplemental indenture or indentures provided for in Section 1 of this Article shall be subject to the provisions of Section 9 of Article Three hereof, and, if it does not contain an express grant by the successor corporation, as further security for all Bonds issued and to be issued hereunder, of all its property and franchises then owned and which it may thereafter acquire (other than property of the character herein defined as excepted property), shall contain:

(a) A grant by such successor corporation confirming the prior lien of this Indenture upon the

trust estate and subjecting to the lien and operation hereof as a first lien, or as a lien subject to liens affecting the property and franchises of the Railway Company prior to such consolidation, merger or conveyance: (1) all property acquired either with cash at any time then or thereafter held hereunder by the Corporate Trustee or in exchange for property released from the lien hereof or the acquisition of which has been or shall be made the basis of the withdrawal of cash hereunder; (2) all betterments, extensions, improvements and additions of, to, upon and for the property, rights and franchises subject to the lien hereof; (3) all repairs, renewals, replacements, substitutions and alterations of, to, upon and for such property, rights and franchises; and (4) all property, rights and franchises acquired pursuant to any covenant herein contained which may be purchased, constructed or otherwise acquired by such successor corporation from and after the date of such consolidation, merger or conveyance, as the case may be;

(b) A grant by such successor corporation of all property and franchises located in the Counties of St. Louis, Itasca, Lake or Carlton, in the State of Minnesota or the County of Douglas in the State of Wisconsin, owned prior to such consolidation, merger or conveyance by any corporation with or into which the Railway Company or any successor corporation may be consolidated or merged or to which the Railway Company or any successor corporation may make any such conveyance or which may thereafter be acquired by such successor corporation making such grant, subject to any liens which attach to such property or franchises prior to such consolidation, merger or conveyance or prior to the acquisition of such property or franchises by such successor corporation;

(c) A covenant on the part of such successor corporation that all property and franchises thereafter acquired by it and necessary to the full and complete performance of any covenant herein contained relating to the maintenance and upkeep of the trust estate, to the making of all needful and proper renewals, replacements, substitutions and alterations, and to the preservation and keeping in full effect of all rights, franchises and privileges, subject to the lien hereof, and of any other covenant herein, shall be conclusively deemed and taken to be acquired by it in performance of such covenant and to have become subject to the prior lien of this Indenture; and

(d) A covenant by such successor corporation to keep the trust estate as far as practicable readily identifiable; and a stipulation that the Trustees shall not be taken impliedly to waive, by accepting or joining in the supplemental indenture, any rights they would otherwise have.

SECTION 3. In case the Railway Company or any successor corporation shall be consolidated or merged with or into, or shall make a conveyance to, any other corporation, as permitted and upon the terms provided in Section 1 of this Article, the corporation formed by or resulting from such consolidation or merger or to which such conveyance shall have been made, as aforesaid,—upon executing and delivering to the Trustees, and causing to be recorded, the supplemental indenture provided for in Section 1 of this Article,—shall succeed to and be substituted for the Railway Company, with the same force and effect as if it had been named in, and had executed, this Indenture, as the party of the first part hereto, and shall have and possess and may exercise, subject to the terms and conditions of this Indenture and of any inden-

amount of Bonds outstanding may themselves call and hold such meeting. Bonds owned or held by or for the account of the Railway Company or any subsidiary or affiliate corporation or person owning, directly or indirectly, a majority of the voting control of the Railway Company shall not be deemed to be outstanding for any purpose of this Article, except that any Bond pledged by any such corporation or person as security for loans or other obligations otherwise than to another such corporation or person, if the pledgee is entitled and free to exercise in his discretion, uncontrolled by any such corporation or person, the right to vote such Bond, shall be deemed to be outstanding for all purposes of this Article. Every such meeting shall be held in the Borough of Manhattan, The City of New York, State of New York.

SECTION 2. Notice of every meeting of bondholders, setting forth the purpose of such meeting in reasonable detail, shall be given by publishing the same at least four times in one daily newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, The City of New York, State of New York, and in a daily newspaper printed in the English language and customarily published on each business day and of general circulation in the City of Chicago, State of Illinois, the first publication in any such newspaper to be not less than sixty and not more than ninety days prior to the date fixed for the meeting; *provided* that such first publication may be less than sixty but not less than thirty days prior to the date fixed for the meeting if the Corporate Trustee in its absolute discretion deems such shorter notice advisable. The cost of publishing any such notice or notices shall be paid by the Railway Company.

SECTION 3. The Corporate Trustee may (for the purpose of enabling the bondholders to be present and vote at any meeting without producing their Bonds, and of enabling them to be present and vote at any such meeting by proxy) make, and may from time to time vary, such regulations as it shall think fit for the deposit of Bonds with, or the exhibition thereof, to any bank, trust company or corporation, firm or person, approved by the Corporate Trustee, and for the issue to the person depositing the same of certificates by such bank, trust company or corporation, firm or person entitling the persons so depositing or exhibiting the same to be present and vote at any such meeting or to appoint proxies to represent them and vote for them at any such meeting in the same way as if the persons so present and voting either personally or by proxy were the actual bearers of the Bonds in respect of which such certificates shall have been issued, and any regulations so made shall be binding and effective and the votes given in accordance therewith shall be valid and shall be counted. If any such meeting shall have been called by bondholders or by the Railway Company as aforesaid, upon failure of the Corporate Trustee to call the same after having been so requested to do under the provisions of Section 1 of this Article, regulations to like effect for such deposit of Bonds with, or exhibition thereof to, and issue of certificates by, any bank or trust company organized under the laws of the United States of America, or of any State thereof, having a capital of not less than $50,000, shall be similarly binding and effective for all purposes hereof,

if adopted or approved by the bondholders calling such meeting or by the Board of Directors of the Railway Company, if such meeting shall have been called by the Railway Company, provided that in either such case copies of such regulations shall be filed with the Corporate Trustee. Each such writing shall state the aggregate principal amount of Bonds regarding which the person authorized thereby is entitled to vote. Save as herein otherwise expressly provided, the only persons who shall be recognized at any meeting as holders of any Bonds, or as entitled to vote or be present at the meeting in respect thereof, shall be the persons who produce Bonds at the meeting.

SECTION 4. The quorum at any such meeting shall be persons holding or representing by proxy at least 66⅔% in the aggregate principal amount of Bonds outstanding; but less than a quorum may adjourn the meeting from time to time and the meeting may be held as adjourned without further notice, whether such adjournment shall have been had by a quorum or by less than a quorum. The Corporate Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting; and the meeting shall be organized by the election of a permanent chairman and a secretary. At any meeting, each bondholder shall be entitled to one vote for every $1,000 principal amount of Bonds upon which he shall be entitled to vote, as aforesaid. The chairman of the meeting shall have no right to vote other than by virtue of Bonds held by him or by instruments in writing as aforesaid duly designating him as the person to vote on behalf of other bondholders.

SECTION 5. Any representative of the Corporate Trustee, and its counsel, and any representative of the Railway Company, and its counsel, may attend and speak at any such meeting.

SECTION 6. A meeting of the bondholders shall have the power, by resolution affirmatively voted for by 66⅔% in principal amount of the Bonds then outstanding, to

(a) sanction any change or alteration of any provision in this Indenture and any modification or compromise of the rights of the bondholders against the Railway Company or against its property, whether such rights shall arise under the provisions of this Indenture or otherwise, provided, however, that no such change or alteration which, in the opinion of the Corporate Trustee, shall affect the rights, duties or immunities of the Trustees or either of them under this Indenture may be made without the consent of the Trustees;

(b) require the Trustees or either of them, as the case may be, on having entered into or taken possession of the mortgaged property, or any part thereof, to restore the same to the Railway Company upon such conditions as the bondholders may direct;

(c) sanction any plan for the reorganization, readjustment or liquidation of the Railway Company;

(d) authorize the Trustees or either of them, as the case may be, to accept in satisfaction or part satisfaction for the sale or transfer of all or any part of the mortgaged property any securities of any corporation formed or to be formed;

(e) require the Trustees or either of them, as the case may be, to exercise or refrain from exercising any of the powers conferred upon them by this Indenture and to direct the manner of the exercise of any such power or to waive any default on the part of the Railway Company, other than the non-payment of any principal moneys at maturity or interest when due, upon such terms as may be decided upon;

(f) authorize the Trustees or either of them to bid at any sale of the mortgaged property, or any part thereof, and to tender in payment or part payment on account of any property so purchased, all or any part of the Bonds then outstanding, and to give the Railway Company a valid discharge in respect of the amount of Bonds so tendered, and to hold any property so purchased and any part of the Bonds then outstanding so tendered, in trust for all of the holders of outstanding Bonds pro rata in proportion to the amounts held by them respectively before making such tender.

Provided, however, that anything in this Article to the contrary notwithstanding, the bondholders shall have no power to (a) extend the maturity of any Bonds, or reduce the rate of interest thereon, or otherwise modify the terms of payment of such principal or interest without the consent of the holder of each Bond so affected, or (b) effect a reduction of the percentage required for any change or alteration or modification or compromise as aforesaid without the consent of the holders of all the outstanding Bonds.

SECTION 7. Any such resolution so passed at a meeting of the bondholders duly convened and held shall be

binding upon all bondholders, whether present or not at such meeting, and each of the bondholders and the Trustees shall be bound to give effect thereto accordingly, and the passing of any such resolution shall be conclusive evidence that the circumstances justify the passing thereof, the intention being that it shall rest with the meeting to determine without appeal whether or not the circumstances justify the passing of such resolution.

SECTION 8. Minutes of all resolutions and proceedings at every such meeting shall be made and duly recorded in the books to be from time to time provided for that purpose by the Corporate Trustee, at the expense of the Railway Company, and any such minutes, if signed by the chairman and secretary of the meeting at which such resolutions were passed or proceedings had, shall be conclusive evidence of the matters therein contained, and, until the contrary is proved, every such meeting, with respect to the proceedings of which minutes have been made, shall be deemed to have been duly held and convened, and all resolutions passed and proceedings had thereat, to have been duly passed and had.

SECTION 9. Bonds authenticated and delivered after the date of any bondholders' meeting may bear a notation in form approved by the Corporate Trustee as to any action taken at such meeting of bondholders, and upon the demand of the holder of any Bond outstanding at the date of any bondholders' meeting and presentation of his Bond for the purpose, the Railway Company shall cause notation to be made on the Bond by endorsement or otherwise as to any action taken at any meeting of bondholders

theretofore held. If the Railway Company or the Corporate Trustee shall so determine, new Bonds so modified as to conform, in the opinion of the Corporate Trustee and the Board of Directors of the Railway Company, to any bondholders' resolution shall be prepared by the Railway Company, authenticated by the Corporate Trustee and delivered, in equal aggregate principal amounts, without cost to the holders of Bonds then outstanding hereunder, upon surrender of such Bonds with all unmatured coupons and all matured coupons not fully paid. The Railway Company or the Corporate Trustee may require the Bonds outstanding to be presented for notation or exchange as aforesaid if it shall see fit to do so. Indentures supplemental to this Indenture embodying any modification of or addition to the provisions of this Indenture, or any modification of the rights and obligations of the Railway Company or of the rights of the holders of the Bonds and appurtenant coupons made at any bondholders' meeting and approved by resolution of the Board of Directors of the Railway Company as aforesaid may be executed by the Trustees and the Railway Company, and upon demand of the Trustees or either of them, or if so specified in any resolution adopted at any bondholders' meeting, shall be executed by the Railway Company and the Trustees.

ARTICLE THIRTEEN.

Miscellaneous Provisions.

SECTION 1. Any moneys received by any paying agent under any provision of this Indenture shall be held in trust for the holders of the Bonds and coupons for the payment of which such moneys were received until paid

conformably with the provisions of this Indenture, but need not be segregated and may be held as part of the general funds of the paying agent and need not be redeposited or invested by it. No paying agent shall be under any liability for interest on any such moneys except such as during the period held it may agree with the Railway Company to pay thereon. Any paying agent shall give the Corporate Trustee notice of any failure by the Railway Company to make any payment of the principal of, premium if any, or interest on the Bonds when the same shall be due and payable.

During the continuance of an event of default under this Indenture, of which the Corporate Trustee shall have given written notice to any paying agent, any such moneys held by such paying agent shall upon the written request of the Corporate Trustee be paid over to it to be held by it subject to the same trusts as those for which such moneys were held by such paying agent. In connection with the satisfaction and discharge of this Indenture all moneys then held by any paying agent under the provisions of this Indenture shall, upon demand of the Railway Company, be repaid to it or paid to the Corporate Trustee and thereupon such paying agent shall be released from all further liability with respect to such moneys.

SECTION 2. Upon the request of the Railway Company any moneys held by the Corporate Trustee or by any paying agent remaining unclaimed by the holders of the Bonds and coupons for six years after the date when such moneys were payable shall be paid over by the Corporate Trustee or the paying agent, as the case may be, to the Railway Company and any liability of the Corporate

Trustee or the paying agent with respect to such moneys shall thereupon cease and the holders of said Bonds or coupons shall thereafter be entitled to look only to the Railway Company, as the holders of general claims, for payment thereof; *provided, however,* that the Corporate Trustee or any paying agent, before being required to make any such repayment, may, at the expense of the Railway Company, cause notice that said moneys have not been claimed and that after a date specified therein any unclaimed balance of such moneys then remaining will be repaid to the Railway Company, to be published once each calendar week for four successive weeks in one daily newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, The City of New York, New York. In no event shall the holders of such Bonds or coupons appertaining thereto be entitled to interest upon such money, whether remaining with the Corporate Trustee or any paying agent, or so repaid to the Railway Company.

SECTION 3. Nothing in this Indenture express or implied is intended or shall be construed to give to any person or corporation other than the parties hereto and the holders of the Bonds secured by this Indenture, any legal or equitable right, remedy or claim under or in respect of this Indenture or any covenant, condition or provision herein contained; all the covenants, conditions and provisions hereof being and intended to be for the sole and exclusive benefit of the parties hereto and of the holders of the Bonds hereby secured.

The terms "this Indenture" or "Indenture" shall mean this Indenture, either as originally executed or as the same may from time to time be supplemented, modified or amended by any supplemental indenture entered into pursuant to any of the provisions hereof.

The First National Bank of the City of New York, as Corporate Trustee, and Charles C. Hubbell, Jr., as Individual Trustee, parties of the second part hereto, hereby accept the trusts in this Indenture declared and provided and agree to perform the same upon the terms and conditions herein set forth.

For the purpose of facilitating the recording of this Indenture, the same may be executed simultaneously in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

This Indenture is dated, for convenience, October 1, 1946, although executed and delivered on the date of the acknowledgment hereof by the Trustees; and the same shall be effective from the date on which it is so executed and delivered.

IN WITNESS WHEREOF, Duluth, Missabe and Iron Range Railway Company has, in pursuance of the resolutions aforesaid of its Board of Directors and the aforesaid consent of its stockholders, caused its corporate name to be signed by its President or a Vice-President, and its corporate seal to be affixed hereto, attested by its Secretary or an Assistant Secretary; and The First National Bank of the City of New York, for the purpose of testifying its acceptance of the trust hereby created, has also caused its corporate name to be signed by its President, or a Vice-President, and its corporate seal to be affixed hereto, attested by its Cashier or Assistant Cashier, and Charles C. Hubbell, Jr., the other party of the second part, has signed this Indenture and acknowl-

edged such signature, all as of the day and year first above written.

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

By P. H. Van Hoven
President.

Attest: A. E. Arneson
Secretary.

(SEAL)

Signed, sealed and delivered in the presence of
P. H. Stalker
Franklin B. Stevens
As to Duluth, Missabe and Iron Range Railway Company.

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK

By Henry V. Sturgis
Vice-President.

Attest: W. H. Gordon
Assistant Cashier.

(SEAL)

Signed, sealed and delivered in the presence of
Harold C. Michael
Grace J. Crawford
As to The First National Bank of the City of New York.

Signed, sealed and delivered in the presence of
C. C. Hubbell Jr. (SEAL)
Harold C. Michael
Grace J. Crawford
As to Charles C. Hubbell, Jr.

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 30th day of October, 1946, before me, a Notary Public of the State of New York, in and for the County of New York, personally came and appeared P. H. VAN HOVEN, President, and A. E. ARNESON, Secretary of DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY, to me personally known and known to me to be such President and Secretary, respectively, of said corporation, and known to me to be the persons who executed the foregoing Indenture on behalf of DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY, who being by me duly and severally sworn, did severally say that the said P. H. VAN HOVEN is the President, and the said A. E. ARNESON is the Secretary of Duluth, Missabe and Iron Range Railway Company, that the seal affixed to the foregoing Indenture is the corporate seal of said corporation, that said Indenture was executed in behalf of said corporation by authority of its Board of Directors, and they severally acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first written.

Peter N. Moreno

(SEAL)

PETER H. MORENO
NOTARY PUBLIC in the State of New York
Residing in New York County
N.Y. Co. Clk's No. 262, Reg. No. 368-M-8
Commission expires March 30, 1948

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

On this 31st day of October, 1946, before me, a Notary Public of the State of New York, in and for the County of New York, personally came and appeared Henry S. Sturgis, Vice-President, and W. E. GERDES, Assistant Cashier of THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, to me personally known and known to me to be such Vice-President and Assistant Cashier, respectively, of said corporation, and known to me to be the persons who executed the foregoing Indenture on behalf of THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, who being by me duly and severally sworn, did severally say that the said Henry S. Sturgis is a Vice-President, and the said W. E. GERDES is an Assistant Cashier of The First National Bank of the City of New York, that the seal affixed to the foregoing Indenture is the corporate seal of said corporation, that said Indenture was executed in behalf of said corporation by authority of its Board of Directors, and they severally acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first written.

Peter H. Moreno

PETER H. MORENO
NOTARY PUBLIC in the State of New York
Residing in New York County
N.Y. Co. Clk's No. 262, Reg. No. 368-M-8
Commission expires March 30, 1948

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

On this 31st day of October, 1946, before me, a notary public of the State of New York, in and for the County of New York, personally came and appeared the above-named CHARLES C. HUBBELL, JR., to me known to be the person who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year in this certificate first written.

Peter H. Moreno
Notary Public.

PETER H. MORENO
NOTARY PUBLIC in the State of New York
Residing in New York County
N.Y. Co. Clk's No. 262, Reg. No. 368-M-8
Commission expires March 30, 1948

(SEAL.)

State of Wisconsin } ss.
DEPARTMENT OF STATE

Received this 2nd day of November A. D. 19 46 at 10:00 o'clock A.M. and recorded in Vol. 39 of Railroad Mortgages on pages 251 ET SEQ.

John R. Commons
Assistant Secretary of State

(1117)

COUNTERPART No. 7

NORTHERN PACIFIC RAILWAY
EQUIPMENT TRUST OF 1946,

LEASE OF RAILROAD EQUIPMENT

Dated December 10, 1946

J. P. MORGAN & CO. INCORPORATED,

as Trustee,

to

NORTHERN PACIFIC RAILWAY COMPANY

AGREEMENT

Dated December 10, 1946

Between

WALTER W. RICH and THOMAS A. MORAN,
Vendors,

J. P. MORGAN & CO. INCORPORATED

Trustee

and

NORTHERN PACIFIC RAILWAY COMPANY

For Issue of $6,880,000 Equipment Trust Certificates

Lease of Railroad Equipment, dated December 10, 1946, between J. P. MORGAN & CO. INCORPORATED, a trust company duly organized and existing under the laws of the State of New York, Trustee (hereinafter called the "Trustee"), party of the first part, and NORTHERN PACIFIC RAILWAY COMPANY, a corporation duly organized and existing under the laws of the State of Wisconsin (hereinafter called the "Company"), party of the second part.

WHEREAS, by a certain Agreement (hereinafter called the "Agreement") dated December 10, 1946, between WALTER W. RICH and THOMAS A. MORAN, Vendors (hereinafter called the "Vendors"), J. P. MORGAN & CO. INCORPORATED, as Trustee, and NORTHERN PACIFIC RAILWAY COMPANY, a counterpart original whereof is hereto annexed and made a part hereof, there was constituted "NORTHERN PACIFIC RAILWAY EQUIPMENT TRUST OF 1946", whereby it was agreed that the railroad equipment which said Vendors transfer or cause to be transferred to the Trustee thereunder is to be leased to the Company hereunder; and

WHEREAS, pursuant to the provisions of the Agreement, said railroad equipment has been or will be transferred to the Trustee thereunder, and the title to said railroad equipment vested in the Trustee:

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

That J. P. Morgan & Co. Incorporated, Trustee as aforesaid (acting in pursuance of the Agreement), party of the first part, for and in consideration as well of the sum of one dollar to it paid by the Company, party of the second part, at or before the ensealing and delivery hereof, the receipt of which is hereby acknowledged, as of the rents, covenants and conditions hereinafter mentioned to be paid, kept and performed by the Company, has let and leased, and does hereby let and lease, to the Company for the term from and

after December 10, 1946, to and including December 10, 1956, unless sooner terminated as herein provided, all the railroad equipment of Northern Pacific Railway Equipment Trust of 1946, to-wit:

No. of Units	*Description of Equipment*	*Road Numbers (Both Inclusive)*
6	4500 H. P. Diesel-Electric Passenger Locomotives, Model F 3, each consisting of one lead unit and two booster units, Estimated Cost per locomotive $457,810.00; Electro-Motive Division, General Motors Corporation, Builder	6500-6505
5	6000 H. P. Diesel Electric Freight Locomotives, Model F 3, each consisting of two lead units and two booster units, Estimated Cost per locomotive $574,278.00; Electro-Motive Division, General Motors Corporation, Builder	6011-6015
5	Lightweight Water-Baggage Cars, Estimated Cost per unit $50,643.27; Pullman-Standard Car Manufacturing Company, Builder	400-404
5	Lightweight Mail-Dormitory Cars, Estimated Cost per unit $71,208.04; Pullman-Standard Car Manufacturing Company, Builder	425-429
5	Lightweight Diner-Lunch Counter Cars, Estimated Cost per unit $109,157.92; Pullman-Standard Car Manufacturing Company, Builder	450-454
14	Lightweight Sleeping Cars, Estimated Cost per unit $97,408.26; Pullman-Standard Car Manufacturing Company, Builder	to be designated by separate name for each unit
5	Lightweight Observation-Sleeping Cars, Estimated Cost per unit $99,113.51; Pullman-Standard Car Manufacturing Company, Builder	

together with such additional, substitute, or replacing railroad equipment as may be acquired for said Trust and subjected to this Lease as hereinafter provided (hereinafter and in the Agreement collectively called the Trust Equipment).

The estimated total cost of the railroad equipment above specifically described, when completed, has been certified to the Trustee to be not less than Eight Million Six Hundred Thirty Two Thousand Five Hundred Seventy Nine Dollars ($8,632,579.00).

If the actual total cost of all the Trust Equipment specifically described hereinabove shall not equal or exceed said

sum, then, in accordance with the provisions of the Agreement, in addition to said described equipment there shall be acquired by the Vendors and subjected to this Lease other new standard gauge equipment, other than work equipment, complying with the requirements of the interchange rules of the Association of American Railroads, of substantially as good material and construction, of such cost that the aggregate actual total cost of all the Trust Equipment shall equal or exceed Eight Million Six Hundred Thirty Two Thousand Five Hundred Seventy Nine Dollars ($8,632,579.00); and the Trustee shall execute to the Company a supplemental lease thereof, describing the same, upon and subject to the terms and conditions hereof and of the Agreement, and such additional equipment shall be part of the Trust Equipment, subject to all the terms and conditions hereof and of the Agreement in all respects as though it had been part of the original Trust Equipment herein described.

If, by reason of Governmental restrictions or other unforeseen developments, some or all of the equipment specifically described above shall be unobtainable for the trust, but other equipment needed by the Company shall be obtainable in such case, at the option of the Company exercised before December 10, 1947, such unobtainable equipment may by amendment of this Lease be eliminated from the trust and from this Lease and such other equipment may be included in the trust and in this Lease in substitution therefor with the same effect as if such substituted equipment had originally been included and described in this Lease instead of such eliminated equipment; provided, however, that such substituted equipment shall consist of new standard gauge railroad equipment, other than work equipment, approved as to class or type, material and construction by the Company, and of such cost that the $6,880,000 authorized par

value of Trust Certificates shall not be in excess of eighty per centum (80%) of the sum of (a) the aggregate cost of all of such substituted equipment and (b) the aggregate cost of all of the equipment specifically described above and not eliminated. Such substituted equipment shall be deemed a part of the trust equipment for all purposes of the Agreement and this Lease. Such amendment of this Lease shall be made by supplemental lease or leases, which shall state the cost or estimated cost of such substituted equipment.

As and when the Trust Equipment shall from time to time be transferred, sold or assigned and delivered to the Trustee under the Agreement and marked in accordance with the provisions of Article Second hereof, the same shall be delivered to the Company, and shall, upon such delivery to the Company *ipso facto*, and without further deed of lease or transfer, pass under and become subject to all the terms and provisions of this Lease, and be deemed a portion of the Trust Equipment leased by the Trustee to the Company hereunder in all respects as if the same had been so delivered simultaneously with the execution and delivery hereof.

And the Company, in consideration of the premises, by these presents covenants and agrees with the Trustee as follows:

ARTICLE FIRST.

The Company hereby accepts this Lease of all the Trust Equipment, and hereby covenants and agrees to accept delivery and possession hereunder of the Trust Equipment as hereinbefore provided and subject to the terms and conditions mentioned in the Agreement; and the Company covenants and agrees to pay, or cause to be paid, to the Trustee

at its office in the Borough of Manhattan, City and State of New York, in such coin or currency as, at the time of payment is legal tender for the payment of public and private debts in the United States of America, rent hereunder for the Trust Equipment which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable (whether or not any of such items shall become due and payable prior to the delivery under this Lease of the Trust Equipment or any of the Trust Equipment):

(a) Promptly upon the execution of this Lease, if necessary, a sum which when added to the net proceeds of the sale of the Trust Certificates paid to the Trustee by the Vendors (excluding premium and accrued dividends, if any), will make the total sum deposited equal to $6,880,000;

(b) Prior to the first delivery of any completed unit or units of the Trust Equipment and in anticipation of such delivery, as advance rent, amounts sufficient to pay the bills of the manufacturers of the Trust Equipment to the Vendors for the Trust Equipment about to be delivered, to the extent of One Million Seven Hundred Fifty Two Thousand Five Hundred Seventy Nine Dollars ($1,752,579), in accordance with the provisions of the second paragraph of Article Second of the Agreement;

(c) From time to time, upon request of the Trustee, amounts sufficient to reimburse the necessary and reasonable expenses of the trust created by the Agreement and pay the proper compensation of the Trustee, and the reasonable expenses incurred by the Trustee in the administration of its trust under the Agreement

and under this Lease, and any other sums payable by the Company thereunder and hereunder;

(d) Sums equal to the taxes, assessments and other governmental charges upon the Trust Equipment or income of the trust created in the Agreement or upon the Agreement, which the Trustee may by law be required to pay. Nothing herein or in the Trust Certificates or the Agreement contained shall be deemed to impose on the Trustee or on the Company any obligation to pay to the bearer or registered holder of any Trust Certificate or to the bearer of any dividend warrant any amount required by any law of the United States of America or of any State or subdivision thereof or of any Territory or of the District of Columbia, to be withheld from the amount payable to the holder of any Trust Certificate or dividend warrant. The Company shall not be required to pay any tax, assessment or other governmental charge so long as the Company shall in good faith and by appropriate legal proceedings contest the validity thereof, unless thereby, in the judgment of the Trustee, the rights or interests of the Trustee or of the bearers or registered holders of the Trust Certificates may be materially endangered;

(e) Amounts sufficient to pay the dividend warrants attached to and the dividends payable on the Trust Certificates, when and as the same shall become due and payable;

(f) Amounts sufficient to pay the principal of the Trust Certificates when and as the same shall become due and payable, whether by declaration or upon the respective dates of maturity thereof, or otherwise;

(g) If default shall be made in the full payment of any such dividend warrants, dividends or principal, when and as the same shall become due and payable as aforesaid, amounts sufficient to pay interest on such unpaid dividend warrants, dividends or principal at the rate of four per centum (4%) per annum from the respective dates upon which the same shall have so become due and payable.

Anything in this Lease or in the Agreement to the contrary notwithstanding, the Company will, from time to time, on demand of the Trustee, forthwith pay to the Trustee as additional rent hereunder for the Trust Equipment such amounts as shall, together with the One Million Seven Hundred Fifty Two Thousand Five Hundred Seventy Nine Dollars ($1,752,579) referred to in sub-paragraph (b) of this Article and the fund of Six Million Eight Hundred Eighty Thousand Dollars ($6,880,000) to be deposited with the Trustee, be sufficient to pay the actual total cost of the Trust Equipment together with such other sums, if any, as may be necessary to pay in full the bills of the manufacturers for the Trust Equipment.

ARTICLE SECOND.

The Company covenants and agrees with the Trustee, in addition to its agreement to pay the said rent at the times and in the manner above provided, to keep and maintain at its own expense the Trust Equipment in good order and proper repair, damage thereto to be made good, including, without limitation, damage by collision, fire or explosion.

The Company agrees to cause each unit of the Trust Equipment, at or before delivery to the Company of such unit of Trust Equipment, pursuant and subject to the terms of this Lease, to be plainly, distinctly, permanently and conspicuously marked with name plates, or to be otherwise plainly, distinctly, permanently and conspicuously marked, and to be kept so marked during the continuance of this Lease, upon both sides thereof, and in letters not less than one-half inch in height, with the words:

"Northern Pacific Railway Equipment Trust of 1946. J. P. Morgan & Co. Incorporated, Trustee, Owner, Lessor."

with appropriate changes thereof or additions thereto as from time to time may be required by law to protect the interests of the Trustee and the bearers and registered holders of the Trust Certificates. Such plates or marks shall be such as to be readily visible and as to indicate plainly the Trustee's ownership of the Trust Equipment. In case, during the continuance of this Lease, any of such plates or marks shall at any time be removed, defaced or destroyed, the Company will immediately, at its own expense, cause the same to be restored or replaced. The Company will not change, or permit to be changed, the numbers or names upon any of the Trust Equipment (or any numbers or names which may be substituted as herein provided) except with the prior written consent of the Trustee and in accordance with a statement of new numbers or names to be substituted therefor, which previously shall have been filed with the Trustee by the Company.

The Trust Equipment may be lettered "Northern Pacific Railway Company", "Northern Pacific", "N. P. Ry. Co.",

or in some other appropriate manner, for convenience of identification of the leasehold interest of the Company therein; but the Company, during the continuance of this Lease, will not allow the name of any person, association or corporation to be placed on any of the Trust Equipment as a designation which might be interpreted as a claim of ownership thereof by the Company, or by any person, association or corporation other than the Trustee.

ARTICLE THIRD.

The Company further covenants and agrees to furnish to the Trustee, whenever requested by the Trustee and at least once in every year following the first delivery of any of the Trust Equipment and during the continuance of this Lease, an accurate inventory of the Trust Equipment then covered by this Lease, the numbers and description of such units thereof as may have been worn out, lost or destroyed and of the replacements thereof, the numbers of such as were repaired during the preceding year and, so far as practicable, the numbers of such as at the date of such statement are undergoing repair or are in the shops for repair, and a list of the repairs needed on any of the Trust Equipment specifying the Trust Equipment known to be in need of repair and classifying the repairs so needed in accordance with the then current classifications of repairs of the Company. Together with the statement herein referred to, the Company shall also furnish to the Trustee a statement, signed by the Chief Accounting or Operating Officer of the Company, stating that in the case of all the Trust Equipment repainted during the preceding year, the marks and numbers required by Article Second hereof have been preserved, or that the same when repainted have been again marked and numbered

Trustee shall not be a bar to the recovery by the Trustee from the Company for rent past due and unpaid or for future accruing rent, and the Company shall be and remain liable for the same, until such sum is realized as, with the proceeds of any lease or sale of the Trust Equipment or any part thereof, is sufficient for the payment and discharge in full of all the various sums or amounts mentioned in subparagraphs (a), (b), (c), (d), (e), (f) and (g) and in the last paragraph of Article First of this Lease, whether or not they shall then have matured according to their terms, together with any and all other sums or amounts payable by the Company under this Lease or pursuant to the terms and provisions of the Agreement. Prior to December 10, 1956, and prior to any taking possession, withdrawal, sale or lease of the Trust Equipment by the Trustee, the Trustee may in its discretion, and, if so requested by the bearers or registered holders of a majority in principal amount of the Trust Certificates then outstanding and which shall not then have matured according to their terms shall, by written notice to the Company, rescind such declaration terminating this Lease upon the payment to it of all sums theretofore in default, and the expenses and reasonable compensation of the Trustee, together with all expenses occasioned by the default, and upon the performance by the Company of all its other obligations under this Lease which theretofore it shall have failed to perform; and then and thereupon the rent remaining unpaid by the Company shall be and become payable from time to time as provided in Article First hereof.

In case the Trustee shall rightfully demand possession of the Trust Equipment or any part thereof in pursuance of this Lease, and shall reasonably designate a point or

points upon the railroad lines in the possession or control of the Company, including any line under lease to it, or upon the railroad lines of any company a majority of whose capital stock is at the time directly or indirectly owned or controlled by the Company, for the delivery of the Trust Equipment to it, the Company will, at its own expense, forthwith and in the usual manner and at reasonable speed, cause the Trust Equipment to proceed or be drawn to such point or points on said railroad lines as shall be designated by the Trustee and will there deliver or cause to be delivered the same to the Trustee; or the Trustee at its option may keep the Trust Equipment on any of the lines of railroad or premises of the Company until the Trustee shall have leased, sold or otherwise disposed of the same, and for such purpose the Company agrees to furnish without charge the necessary tracks at any convenient point or points selected by the Trustee. It is hereby expressly covenanted and agreed that the performance of the foregoing covenants is of the essence of the contract and that upon application to any court having jurisdiction in the premises the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

If the Company shall commit or suffer any default and during the continuance of such default the Trustee shall exercise any of the powers conferred upon it by this Article Fifth, all payments made by the Company to the Trustee under this Lease after such default, and the proceeds of any judgments collected by the Trustee from the Company hereunder, and the proceeds of every lease and sale by the Trustee of any of the Trust Equipment, together with any other sums which may then be held by the Trustee under

any of the provisions of this Lease, shall be applied by the Trustee in the order of priority following, viz: First, to the payment of all proper charges of the Trustee and of all expenses properly incurred or advances properly made by the Trustee in accordance with the provisions of this Lease, including the expenses of any retaking of the whole or any part of the Trust Equipment and all expenses of any lease or of any sale thereof; and Second, to the payment of all other sums of money due and payable to the Trustee under the provisions of this Lease.

After all such payments shall have been made in full, the title to any of the Trust Equipment remaining unsold or otherwise undisposed of by the Trustee in accordance with the provisions of this Lease shall be duly conveyed by the Trustee to the Company or its nominee or nominees to be held thereafter for its own use free from any further liabilities or obligations to the Trustee. If, after applying all of such sums of money realized by the Trustee as aforesaid, there shall remain any amount due to the Trustee under the provisions of this Lease, the Company agrees to pay the amount of such deficiency to the Trustee. If, after applying as aforesaid the sums of money realized by the Trustee, there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to the Company.

Each and every power or remedy herein given to the Trustee and the bearers and registered holders of the Trust Certificates shall be in addition to every other power or remedy herein specifically given or now or hereafter existing at law or in equity, and each and every power and remedy herein specifically given or otherwise so existing shall not be deemed exclusive, but shall be cumulative, and

may be exercised from time to time and as often and in such order as may be deemed expedient by the Trustee; and the exercise or the beginning of the exercise of one power or remedy shall not be deemed a waiver of the right to exercise at the same time or thereafter any other power or remedy. No delay or omission of the Trustee in the exercise of any right or power accruing upon any default, as above defined, shall impair any such right or power or shall be construed to be a waiver of such default or an acquiescence therein.

ARTICLE SIXTH.

The Company covenants and agrees during the continuance of this Lease, at its own expense, to replace any of the Trust Equipment which may be worn out, obsolete, lost or destroyed from any cause whatever, by other standard-gauge railroad equipment, free from liens, the value of the replacing railroad equipment, figured at total cost if that be below market value, or at market value, if that be below total cost, to be not less than the fair value of the replaced equipment, determined as hereinafter provided. The Company may, at its option, with the consent of the Trustee, and in lieu of such immediate replacement of worn out, obsolete, lost or destroyed Trust Equipment, deposit with the Trustee cash equal to the fair value, determined as hereinafter provided, of the Trust Equipment so worn out, obsolete, lost or destroyed. In the event that deposits in cash are made in lieu of immediate replacement, the sums so deposited shall be held by the Trustee for the equal and proportionate benefit of the bearers and registered holders

of the Trust Certificates until the Trust Equipment so worn out, obsolete, lost or destroyed shall have been replaced, at which time the sums so deposited shall be paid to the Company. At the time of every such replacement or of such deposit in cash in lieu of immediate replacement, the Company shall deliver to the Trustee a certificate of the Chief Accounting Officer or Treasurer of the Company stating the total cost and the fair value of the Trust Equipment so worn out, obsolete, lost or destroyed, determined as hereinafter provided. At the time of every such replacement, the Company shall further deliver to the Trustee a certificate of its Chief Accounting Officer or Treasurer stating the total cost and the market value of the replacing equipment, together with a bill or bills of sale containing a warranty or warranties, an opinion of counsel and certificates as to delivery and acceptance, in like manner as is provided in Article Second of the Agreement.

Upon the written request of the Company stating that the use of certain of the Trust Equipment described in such request is no longer required by the Company, and accompanied by a certificate of the Chief Accounting Officer or Treasurer of the Company stating (1) the total cost of such Trust Equipment and its fair value determined as hereinafter provided, and (2) that the Company has agreed to sell such equipment and the selling price thereof, the Trustee shall, while the Company is not in default hereunder, execute and deliver a bill of sale assigning and transferring to the purchaser named by the Company all the right, title and interest of the Trustee in and to the Trust Equipment specified in said request; provided, however, that none of the Trust Equipment shall be so assigned and transferred unless, simultaneously with the delivery of such

bill of sale, the Trustee shall receive from said purchaser the agreed purchase price thereof and from the Company a sum in cash equal to the amount, if any, by which the fair value of the Trust Equipment so assigned and transferred, determined as hereinafter provided, exceeds said purchase price. The sums so paid to the Trustee shall be held by it for the equal and proportionate benefit of the bearers and registered holders of the Trust Certificates until paid out by the Trustee, upon the written request of the Company, for the purchase by the Trustee of other standard-gauge railroad equipment, free from liens. The delivery of such other equipment to the Trustee shall be accompanied by a bill or bills of sale containing a warranty or warranties, an opinion of counsel, certificates as to delivery and acceptance and a certificate as to total cost in like manner as is provided in Article Second of the Agreement.

The title to any railroad equipment acquired under this Article Sixth shall be taken in the name of the Trustee, free from liens, and such railroad equipment shall be marked in accordance with the provisions of Article Second hereof prior to the delivery thereof to the Company and immediately upon being so marked shall be part of the Trust Equipment, subject to all of the terms and conditions hereof and of the Agreement in all respects as though it had been part of the original Trust Equipment herein described, and the Company and the Trustee shall execute and the Company shall file, register and/or record a supplemental lease thereof, describing the same, upon and subject to all the terms and conditions hereof.

The fair value of all Trust Equipment worn out, obsolete, lost or destroyed, or sold by the Trustee pursuant to this Article Sixth, shall be the total cost thereof less an amount

for depreciation computed by the straight line method at a rate not greater than 1/3 of 1 per centum of the total cost of such Trust Equipment for each calendar month between the date of delivery of such Trust Equipment to the agent of the Trustee and the time when such Trust Equipment became worn out, obsolete, lost or destroyed or was sold, as the case may be. For all purposes of this Lease and the Agreement, the maximum depreciation on the Trust Equipment, or any thereof, shall be computed as in this paragraph provided.

The Trustee may accept any certificate filed by the Chief Accounting Officer or Treasurer of the Company under the provisions of this Article Sixth as conclusive evidence of the total cost (as defined in Article Second of the Agreement), or of the market value or of the fair value, as the case may be, of the unit or units of the Trust Equipment involved, and shall incur no liability for any sale made or act done under this Article Sixth in reliance thereon.

ARTICLE SEVENTH.

This Lease, unless sooner terminated as hereinabove provided, shall continue in force until the rent so paid hereunder shall furnish moneys sufficient to meet, discharge and cancel all the interests in the Trust Certificates, created in respect of the Trust Equipment, and the dividends thereon, as well as all the other payments and charges which the Company herein covenants to pay. At the expiration of this Lease and after all such payments required hereby shall have been completed and fully made to the Trustee, the Trust Equipment then covered by this Lease, whether the same shall have been delivered to the Company simultaneous-

ly with or after the execution hereof, shall, at the option of the Company, be assigned and transferred by the Trustee to the Company or its nominee or nominees; provided, however, and it is agreed, that, until then, the title to none of the Trust Equipment shall pass to or vest in the Company, but title to and the ownership of all the Trust Equipment shall be vested and remain in the Trustee, notwithstanding the delivery of the Trust Equipment to and the possession and use thereof by the Company.

ARTICLE EIGHTH.

The Company covenants that it will cause this Agreement and the Lease and all supplemental leases and agreements which may be executed under the terms of this Agreement or of the Lease, to be duly filed or recorded and thereafter to be duly re-filed or re-recorded in all States wherein are situated railroad lines owned or operated by it (either alone or jointly with another) or over which the Company has trackage rights, and in all States where any of the Trust Equipment shall be delivered hereunder or under the Lease, and otherwise as may be required by law for the full protection of the title of the Trustee and the rights of the holders of the Trust Certificates, so that this Agreement and the Lease and all said other instruments may at all times be duly filed and recorded. Such filing or recording of this Agreement and the Lease, or of any such supplemental agreement or lease, shall be effected in each of said States prior to the acceptance of delivery in, or the movement into, such State of any of the Trust Equipment subjected to the trust by virtue of such Agreement or Lease or supplemental agreement or lease.

ARTICLE NINTH.

Until it shall have discharged all its obligations under this Lease, the Company shall pay all costs, charges and expenses incident to the performance of all terms and conditions of this Lease and the Agreement on its part to be performed, including, without limiting the generality of the foregoing, all recording and registration taxes and fees, and all expenses incident to the preparation, execution, acknowledgment, filing, refiling, registering, reregistering, recording and rerecording of this Lease and the Agreement and of any instrument supplemental to this Lease or the Agreement or of further assurance, and all stamp taxes and other taxes, duties, imposts, assessments, charges, fines and penalties of any kind imposed upon this Lease, the Agreement or any other instrument executed in connection with the trust or the Trust Equipment or the manner of operation thereof, and shall keep the Trust Equipment and all replacements thereof free from any liens which would be an encumbrance upon the Trustee's title thereto.

ARTICLE TENTH.

In order to facilitate the filing and recording of this Lease the same may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

ARTICLE ELEVENTH.

This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, The Trustee and the Company acting in accordance with the terms and conditions of the Agreement, and pursuant to due corporate authority, have caused these presents to be duly executed as of December 10, 1946.

J. P. MORGAN & CO. INCORPORATED,
As Trustee,
By S. W. Cragin
Vice-President.

Attest:
Wm. L. Carson
Assistant Secretary.

Signed, sealed, acknowledged and delivered as to J. P. Morgan & Co. Incorporated, in the presence of:
R. H. Baumann
Harry C. Enetsen
Attesting Witnesses

NORTHERN PACIFIC RAILWAY COMPANY,
By J. H. Allen Jr.
Vice-President.

Attest:
Thos. L. McLeod
Assistant Secretary.

Signed, sealed, acknowledged and delivered as to Northern Pacific Railway Company in the presence of:
R. H. Baumann
Harry C. Enetsen
Attesting Witnesses

STATE OF NEW YORK,
COUNTY OF NEW YORK, } ss.

I, JOSEPH A. BAMBURY, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 9... day of December, A. D. 1946, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument bearing date as of December 10, 1946, S. W. Cragin and Wm. L. Carson, each to me personally known and known to me to be respectively a Vice-President and an Assistant Secretary of J. P. Morgan & Co. Incorporated, one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice-President and Assistant Secretary respectively in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and to be duly authorized to make this acknowledgment as hereinafter stated, and the said S. W. Cragin and Wm. L. Carson, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said S. W. Cragin resides at Pheasant Lane, Greenwich, Connecticut; and that the said Wm. L. Carson resides at No. 150 - 16 Tenth Avenue, Whitestone, Long Island, New York; and said S. W. Cragin is a Vice-President and

said Wm. L. Carson is an Assistant Secretary of J. P. Morgan & Co. Incorporated, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said S. W. Cragin and Wm. L. Carson know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the by-laws of such corporation and by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice-President and Assistant Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such notary public, in the said County of New York, State of New York, this the day and year in this my certificate first above written.

Joseph A. Bambury
Notary Public of New York State
Residing in New York County

JOSEPH A. BAMBURY
Notary Public, New York County
N.Y.Co.Clk's No. 22, Reg.No. 386-B-8
Kings Co.Clk's No.401, Reg.No.306-B-8
Commission Expires March 30, 1948

STATE OF NEW YORK,
COUNTY OF NEW YORK, } ss.

I, JOSEPH A. BAMBURY, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 9 day of December, A. D. 1946, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument bearing date as of December 10, 1946, F. G. Hollender and Hugh McLeod, each to me personally known and known to me to be respectively a Vice-President and an Assistant Secretary of Northern Pacific Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice-President and Assistant Secretary respectively in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and to be duly authorized to make this acknowledgment as hereinafter stated, and the said F. G. Hollender and Hugh McLeod, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said F. G. Hollender resides at No. 9206 89th Avenue, Woodhaven 21, New York; and that the said Hugh McLeod resides at No. 1847 Fairmount Avenue, St. Paul, Minnesota; and said F. G. Hollender is a Vice-President and said Hugh McLeod is an Assistant Secretary of Northern Pacific Railway

Company, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said F. G. Hollender and Hugh McLeod, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the by-laws of such corporation and by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice-President and Assistant Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such notary public, in the said County of New York, State of New York, this the day and year in this my certificate first above written.

Joseph A. Bambury
Notary Public of New York State
Residing in New York County

JOSEPH A. BAMBURY
Notary Public, New York County
N.Y.Co.Clk's No. 22, Reg.No. 386-B-8
Kings Co.Clk's No.401,Reg.No.306-B-8
Commission Expires March 30, 1948

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This Agreement, dated December 10, 1946, by and between WALTER W. RICH and THOMAS A. MORAN (hereinafter called the "Vendors"), parties of the first part, J. P. MORGAN & CO. INCORPORATED, a trust company, duly organized and existing under the laws of the State of New York, Trustee as hereinafter mentioned (hereinafter called the "Trustee"), party of the second part, and NORTHERN PACIFIC RAILWAY COMPANY, a corporation duly organized and existing under the laws of the State of Wisconsin (hereinafter called the "Company"), party of the third part, witnesseth as follows:

WHEREAS, the Company desires to obtain additional rolling stock and it has been deemed expedient to make provision therefor through the medium of an equipment trust; and

WHEREAS, the Vendors have contracted or will acquire or contract to acquire the railroad equipment specifically described in the Lease of Railroad Equipment from the Trustee to the Company prefixed to this Agreement (hereinafter called the "Lease"); and

WHEREAS, the title to the Trust Equipment is to be vested in the Trustee and is to be retained by the Trustee until transferred under the provisions of the Lease; and

WHEREAS, subscriptions have been or are being secured to the amount of Six Million Eight Hundred Eighty Thousand Dollars ($6,880,000) to a fund to be known as "Northern Pacific Railway Equipment Trust of 1946," which said fund is to be furnished to the Vendors to be applied by them in part payment of the purchase price of said railroad equipment to be acquired by them; and

WHEREAS, the Vendors desire to secure to the subscriber or subscribers to said fund, or their assigns, the payment of the principal amount thereof in ten annual installments,

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payable serially in the amount of $688,000 on December 10, in each year from December 10, 1947, to December 10, 1956, both dates inclusive, as hereinafter more particularly provided, with dividends to said dates of maturity respectively at the rate of one and three-quarters per centum (1¾%) per annum from December 10, 1946, the first dividend being payable on June 10, 1947, and dividends being payable semi-annually on each June 10 and December 10, thereafter; and to evidence the rights of the subscriber or subscribers to said fund by Trust Certificates in substantially the form hereinafter set forth; and

WHEREAS, The Company represents that all things necessary to make its guaranty as endorsed upon the Trust Certificates, when the Trust Certificates shall be issued by the Trustee under this Agreement, the valid, binding and legal obligation of the Company as herein provided, and that all things necessary to be done on its part to make this Agreement and the Lease a valid, binding and legal agreement and lease, respectively, have been done and performed.

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

ARTICLE FIRST.

The Vendors hereby agree to acquire and cause to be sold, assigned, transferred and set over, and do hereby sell, assign, transfer and set over unto the Trustee, as trustee for the bearers and registered holders of the Trust Certificates hereinafter described, the railroad equipment described in the Lease together with all substituted or additional railroad equipment required to be subjected to the Lease as

provided therein (which together with any other railroad equipment at any time covered by the Lease or any other lease supplemental thereto or to this Agreement, or required or intended so to be, shall be hereinafter collectively called the "Trust Equipment"), and also all rights, claims, demands and remedies of the Vendors accruing or to accrue under their contracts for the construction and/or delivery of the "Trust Equipment." The Vendors will deliver or cause to be delivered the Trust Equipment, f. o. b. tracks of the Company, at points to be specified by it, when and as from time to time constructed and completed, to the person or persons designated by the Trustee as its agent or agents to receive such delivery, who may be any one or more of the officers, agents or employees of the Company, and the certificates of any and every agent so designated shall be conclusive evidence of such delivery. The Trustee and the Company shall simultaneously with the execution of this Agreement execute and deliver the Lease.

ARTICLE SECOND.

Upon the execution of this Agreement, the Vendors will deposit or cause to be deposited with the Trustee, in cash, the net proceeds of the sale of the Trust Certificates issuable as hereinafter provided (together with any premium and accrued dividends as hereinafter provided) and at the same time the Company will, if necessary, deposit with the Trustee, in discharge *pro tanto* of advance rental payable by the Company to the Trustee under the Lease, such additional amount in cash as will make the total sum deposited, exclusive of premium and accrued dividends, equal to Six Million Eight Hundred Eighty Thousand Dollars ($6,880,-

000), which sum is herein called the "Deposited Cash." Thereupon, without waiting for the recording, registration or filing of this Agreement or of any lease of or other instrument respecting the Trust Equipment, the Trustee will issue and deliver, to the subscriber or subscribers to said fund, designated in the written order of the Vendors, the Trust Certificates described in Article Fourth hereof to the aggregate principal amount of Six Million Eight Hundred Eighty Thousand Dollars ($6,880,000). For the purposes of this Agreement and the Lease the terms "net proceeds" and "Deposited Cash", as herein defined, shall not be construed to include any premium or accrued dividends collected or received upon the sale of the Trust Certificates, but the amount of such premium and such accrued dividends shall, nevertheless, be deposited with the Trustee and be applied by it on account of the first and next succeeding installments of rental payable under sub-paragraph (e) of Article First of said Lease. The cash deposited with the Trustee, as in this Article Second provided, as well as any premium and accrued dividends collected or received upon the issue of the Trust Certificates, shall, until paid out by the Trustee as herein provided, be held in trust for the benefit of the holders of the Trust Certificates.

Prior to the first delivery of any completed unit or units of the Trust Equipment and in anticipation of such delivery the Company will pay to the Trustee advance rent in the amount of One Million Seven Hundred Fifty Two Thousand Five Hundred Seventy Nine Dollars ($1,752,579), required by sub-paragraph (b) of Article First of the Lease. From time to time as units of the Trust Equipment are delivered the Company will, as provided in the last paragraph of Article First of the Lease, pay to the Trustee as addi-

tional rent under the Lease such amounts as shall, together with the advance rent in the amount of One Million Seven Hundred Fifty Two Thousand Five Hundred Seventy Nine Dollars ($1,752,579) and the Deposited Cash, be sufficient to pay the actual total cost of the Trust Equipment together with such other sums, if any, as may be necessary to pay in full the bills of the manufacturers for the Trust Equipment.

After said payments and deposits have been made as hereinbefore provided, then from time to time, when and as there shall be constructed and delivered to the person or persons designated by the Trustee, as aforesaid, any of the Trust Equipment leased to the Company under the provisions of the Lease, the Trustee shall pay to the Vendors, or upon their order, out of said funds deposited or caused to be deposited with the Trustee as aforesaid, an amount sufficient to pay the actual total cost of the Trust Equipment so delivered together with such other sums, if any, as may be necessary to pay in full the bills of the manufacturers for such Trust Equipment; provided, however, that upon each delivery of Trust Equipment the Trustee shall pay out of the Deposited Cash no more than eighty per centum (80%) of the estimated cost thereof, as set forth in the Lease, or eighty per centum (80%) of the actual cost thereof, as certified by the Vendors pursuant to the following paragraph of this Article Second, whichever is the lesser.

As used in this Agreement and in the Lease, the term "actual cost" of the Trust Equipment shall include only such items as may be properly chargeable to Investment in Equipment under the Accounting Rules of the Interstate Commerce Commission and shall be established by the bills of the manufacturers to the Vendors, certificates of the Vendors as to the cost of materials or parts purchased by the Vendors and furnished by them to the manufacturers,

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and the bills of the Vendors for other expenses properly chargeable to the cost of the Trust Equipment, after deduction, in every case, of any and all rebates, allowances or discounts on the price of the Trust Equipment or any parts or materials thereof, which have been or may hereafter be allowed to the Vendors, the Company or the manufacturers, and which inure directly or indirectly to the benefit of the Vendors or the Company, which bills and certificates the Vendors will deliver to the Trustee. Any certificate as to cost may state that the actual cost of the Trust Equipment therein referred to is tentatively determined, subject to final adjustment as evidenced by final certificate or certificates of cost to be delivered to the Trustee within such time as the Trustee in its discretion in each instance may allow, and the Trustee shall proceed on the basis of such tentative certificate pending final determination. The actual cost of the Trust Equipment shall be conclusively established by such certificate or final certificate, in case there be a final certificate.

At or prior to the time of each delivery of any of the Trust Equipment, there shall be delivered to the Trustee:

(a) Said bills of the manufacturer to the Vendors in respect of such Trust Equipment, together with said certificates of the Vendors, and together with a certificate of the General Auditor of the Company approving the same and stating that all items included in such bills and certificates of cost are properly chargeable to Investment in Equipment under the Accounting Rules of the Interstate Commerce Commission;

(b) A certificate in writing of the agent or agents designated by the Trustee to receive delivery of the

Trust Equipment, stating that the Trust Equipment, specified by road numbers in such certificate, has been delivered to the Trustee, or its agent or agents, and that each unit of such equipment is marked in accordance with the provisions of Article Second of the Lease, and that such Trust Equipment is of the character called for by this Agreement and by the Lease;

(c) A bill or bills of sale of such Trust Equipment from the manufacturer thereof to the Trustee containing a warranty or guaranty that the title to the Trust Equipment therein described is free from all liens and encumbrances;

(d) An opinion of counsel (who may be counsel for the Company) satisfactory to the Trustee that such bill or bills of sale are valid and effective, either alone or in connection with any other instrument referred to in such opinion, to vest in the Trustee, free from all liens and encumbrances, the title to such Trust Equipment;

(e) A certificate of an agent of the Company, duly designated for that purpose, that such units of the Trust Equipment have been inspected and approved by and delivered to and accepted by the Company as lessee thereof.

If the actual cost of all the Trust Equipment specifically described in the Lease shall not equal or exceed the sum of Eight Million Six Hundred Thirty Two Thousand Five Hundred Seventy Nine Dollars ($8,632,579), the Vendors shall acquire and transfer, or cause to be acquired and transferred to the Trustee, subject to all the terms of this Agreement and to be subjected to the Lease as therein provided,

other new standard-gauge equipment, other than work equipment, of substantially as good material and construction as the equipment specifically described in the Lease, and of such actual cost that the actual total cost of all the Trust Equipment shall equal or exceed said sum.

Anything in this Agreement contained to the contrary notwithstanding, the aggregate principal amount of the Trust Certificates which shall be executed and delivered by the Trustee under this Agreement shall not exceed the sum of Six Million Eight Hundred Eighty Thousand Dollars ($6,880,000) at any time outstanding (subject, however, to the provisions of Article Sixth of this Agreement).

Any moneys held by the Trustee after delivery of and payment for the Trust Equipment, the disposition of which is not herein otherwise provided for, shall be credited against the next installment or installments of rent payable under sub-paragraph (f) of Article First of the Lease.

ARTICLE THIRD.

(a) Each of the Trust Certificates shall represent an interest to the principal amount expressed upon its face in the Trust hereby created and the bearer or registered holder thereof shall be entitled to receive dividends on said principal amount at the rate of one and three quarters per centum (1¾%) per annum from December 10, 1946, payable semi-annually on June 10 and December 10 in each year, the first dividend being payable on June 10, 1947, but only from and out of rent or other moneys received by the Trustee under the Lease. The Trust Certificates shall become due and payable as follows: $688,000 aggregate principal amount of

Trust Certificates shall be due on December 10, 1947, and $688,000 aggregate principal amount of Trust Certificates shall be due thereafter on each tenth day of December until December 10, 1956, inclusive.

(b) The due date of each Trust Certificate shall appear upon its face. Definitive Trust Certificates shall be issued in denominations of $1,000 each, shall be dated as of December 10, 1946, and numbered from 1 consecutively upward. Dividend warrants evidencing the right of the holders of the definitive Trust Certificates to the dividends thereon shall be annexed to the respective definitive Trust Certificates, and said dividends shall be paid only on presentation and surrender of the appropriate dividend warrants.

(c) The definitive Trust Certificates and dividend warrants shall be engraved, lithographed, typographically printed or lithographically printed.

ARTICLE FOURTH.

The definitive Trust Certificates, the dividend warrants, and the guaranty to be endorsed on the definitive Trust Certificates by the Company as hereinafter in Article Seventh provided, shall be in substantially the following forms:

[FORM OF DEFINITIVE TRUST CERTIFICATE]

$1,000 No. .....

Northern Pacific Railway
Equipment Trust of 1946
1¾% Serial Equipment Trust Certificate
Dividends payable
June 10 and December 10
Total Authorized Issue $6,880,000
J. P. Morgan & Co. Incorporated
Trustee
Principal hereof due December 10, 19..

J. P. Morgan & Co. Incorporated, Trustee under an Agreement dated December 10, 1946, by and between Walter W. Rich and Thomas A. Moran, Vendors, parties of the first part, J. P. Morgan & Co. Incorporated, Trustee, party of the second part, and Northern Pacific Railway Company, party of the third part, hereby certifies that the bearer hereof, or, if this Certificate is registered in the name of the holder, the registered holder hereof, is entitled to an interest of One Thousand Dollars ($1,000) in Northern Pacific Railway Equipment Trust of 1946, payable on December 10, 19..., and to dividends thereon at the rate of one and three quarters per centum (1¾%) per annum from December 10, 1946, to said date of maturity, payable semi-annually on the tenth day of June and the tenth day of December in each year, but only upon presentation and surrender, as they severally mature, of the dividend warrants hereto attached, both principal and dividends being payable at the office of the Trustee in the Borough of Manhattan, City and State of New York, in such coin or currency as, at the time of payment, is legal tender for the payment of public and private debts in the United States of America, but only from and

out of rent or other moneys received by the Trustee under a certain Lease of Railroad Equipment made by J. P. Morgan & Co. Incorporated, Trustee, to Northern Pacific Railway Company dated December 10, 1946.

This Certificate is one of an issue of certificates in an aggregate principal amount not exceeding Six Million Eight Hundred Eighty Thousand Dollars ($6,880,000), substantially identical in tenor, except as to dates of maturity, all issued or to be issued under said Agreement, under which said railroad equipment and said Lease thereof are held by said Trustee in trust for the *pro rata* benefit of the bearers and registered holders of said Certificates, issued or to be issued by the Trustee pursuant to said Agreement against the payments in cash to the Trustee of the principal amount thereof. Said Agreement provides that the Trustee will pay out such cash, representing the principal amount of said Certificates, from time to time and in varying amounts upon delivery and receipt of said railroad equipment and for the purpose of providing in part for the purchase of said railroad equipment. Reference is made to said Agreement and Lease filed with the Trustee at its office in the Borough of Manhattan, City and State of New York, for a further statement of the rights of the bearer or registered holder hereof, the rights and duties of the Trustee and the rights and obligations of Northern Pacific Railway Company under said Agreement and Lease.

This Certificate may be registered as to principal in the name of the holder hereof at the office of the Trustee in the Borough of Manhattan, City and State of New York, and such registration noted hereon by or on behalf of the Trustee. Thereafter the title to the interest in Northern Pacific Railway Equipment Trust of 1946, represented by

this Certificate, shall pass only by transfer registered at said office and noted hereon, unless and until a transfer to bearer shall have been similarly registered and noted hereon. Such registration shall apply only to the principal of this Certificate and not to the dividend warrants hereunto attached, which shall continue to be payable to bearer and transferable by delivery.

This Certificate and the attached dividend warrants are issued subject to the condition that every holder of this Certificate or of any such dividend warrant, by accepting the same, agrees with every subsequent holder hereof or thereof and with the Trustee and Northern Pacific Railway Company that delivery of this Certificate (unless it be registered in the name of the holder) or any such dividend warrant by the bearer shall vest title to, and all rights under, the same in the transferee to the same extent for all purposes as would the delivery under like circumstances of any negotiable instrument payable to bearer; and the Trustee and Northern Pacific Railway Company shall be entitled to treat the bearer hereof, or the registered holder hereof, if this Certificate be registered as above provided, or the bearer of any such dividend warrant, as the case may be, as the absolute owner hereof or thereof, as the case may be, for all purposes, and shall not be affected by any notice to the contrary.

In case of default in the performance or observance of any of the covenants of Northern Pacific Railway Company in said Agreement or Lease contained, the principal amount represented by this Certificate may become or be declared due and payable in the manner and with the effect in said Agreement provided.

Neither this Certificate nor the dividend warrants attached hereto shall be deemed in anywise a promise to pay of the undersigned, except from and out of the rentals or other moneys received by the undersigned as Trustee pursuant to said Agreement.

IN WITNESS WHEREOF, the Trustee has caused this Certificate to be signed by its President or one of its Vice-Presidents, and its corporate seal, or a facsimile thereof, to be hereunto affixed and to be attested by its Secretary or an Assistant Secretary, and dividend warrants bearing the facsimile signature of its Treasurer to be attached hereto, as of December 10, 1946.

J. P. MORGAN & CO. INCORPORATED,
Trustee,
By.....,
Vice-President.

ATTEST:

.....
Assistant Secretary.

[FORM OF DIVIDEND WARRANT]

$8.75 No. .....

Due to the bearer hereof on the tenth day of ....., 19..., on surrender hereof at the office of the undersigned Trustee in the Borough of Manhattan, City and State of New York, Eight and 75/100 Dollars ($8.75) payable in such coin or currency as, at the time of payment, is legal tender for the payment of public and private debts in the United States of America, as provided in, and being the semi-annual dividend then due on, Certificate No. ..... of Northern Pacific Railway Equipment Trust of 1946, but

only out of rent or other moneys received by the Trustee under the Lease referred to in said Certificate.

J. P. MORGAN & CO. INCORPORATED,
Trustee,

By.....,
Treasurer.

[FORM OF GUARANTY FOR DEFINITIVE TRUST CERTIFICATE]

Northern Pacific Railway Company, for a valuable consideration, hereby unconditionally guarantees to the bearer or registered holder of the within Certificate the prompt payment of One Thousand Dollars ($1,000), being the principal of said Certificate, when the same shall become due and payable, whether at maturity thereof or by declaration or otherwise, and to the bearer of any of the appurtenant dividend warrants the prompt payment of the dividend specified in such warrant, at the rate of one and three quarters per centum (1¾%) per annum on the semi-annual dates and for the period mentioned in said Certificate and in such coin or currency as, at the time of payment, is legal tender for the payment of public and private debts in the United States of America, all as more particularly provided in said Certificate and in the Agreement referred to in said Certificate.

Dated as of December 10, 1946.

NORTHERN PACIFIC RAILWAY COMPANY,
By .....
Vice-President.

Pending the preparation of definitive Trust Certificates, the Trustee may issue, in lieu of such definitive Trust Certificates, temporary Trust Certificates in denominations of $1,000, or such multiples thereof as the Vendors may from

time to time request, substantially of the tenor hereinbefore recited, with appropriate omissions, insertions and variations, as may be approved by the Trustee, and having endorsed thereon the guaranty of the Company, substantially in the form hereinbefore recited, with appropriate omissions, insertions and variations, as may be approved by the Trustee, provided that all such temporary Trust Certificates shall be registered as to principal and dividends in the name of the holder and shall be without dividend warrants. Each temporary Trust Certificate shall designate the date of maturity of the definitive Trust Certificate or Trust Certificates for which it is exchangeable. Prior to the time when definitive Trust Certificates are ready for delivery, such temporary Trust Certificates may be exchanged for new temporary Trust Certificates of the same respective maturities, in denominations of $1,000, or multiples thereof, as may be requested by the person entitled to receive the same, and of a like aggregate principal amount. Temporary Trust Certificates shall be transferable, upon presentation thereof for transfer at the office of the Trustee in the Borough of Manhattan, City and State of New York, accompanied by appropriate instruments of assignment and transfer duly executed by the registered holder thereof, and shall be exchangeable, as soon after December 10, 1946, as is practicable, without cost to the registered holder thereof, for definitive Trust Certificates having endorsed thereon such guaranty of the Company, when the same shall have been prepared, and until such exchange said temporary Trust Certificates shall be entitled to the same benefit of this Agreement in all respects as said definitive Trust Certificates, including the guaranty of payment by the Company. Temporary Trust Certificates may be printed or lithographed.

ARTICLE FIFTH.

(a) The Trust Certificates shall be signed in the name and on behalf of the Trustee by its President or one of its Vice-Presidents, and its corporate seal, or a facsimile thereof, shall be thereunto affixed and attested by its Secretary or one of its Assistant Secretaries. The dividend warrants to be attached to the definitive Trust Certificate shall be authenticated by the facsimile signature of the present or any future Treasurer of the Trustee. Before executing or delivering any Trust Certificates, the guaranty of the Company shall be duly executed thereon as hereinafter in Article Seventh provided, and all matured dividend warrants, if any, appertaining to definitive Trust Certificates shall be cut off and cancelled by the Trustee and shall subsequently be cremated by the Trustee. In case any signing officer of the Trustee or of the Company shall cease to be such officer before the instrument signed shall have been issued and delivered, such instrument, if thereafter issued and delivered, shall be valid in all respects as though such signing officer had not ceased to be such officer.

(b) The definitive Trust Certificates, unless registered as to principal in the name of the holder in the manner hereinafter provided, and the dividend warrants thereto appertaining, shall pass by delivery. The definitive Trust Certificates may be registered as to principal in the name of the holder at the office of the Trustee in the Borough of Manhattan, City and State of New York, and such registration shall be noted thereon by or on behalf of the Trustee. Thereafter no transfer thereof shall be valid unless made at said office by the registered holder thereof in person or by his duly authorized attorney, and similarly noted; but

the same may be discharged from registration by being in like manner transferred to bearer; and such definitive Trust Certificates may again from time to time be registered or transferred to bearer as before; but the dividend warrants shall in any case pass by delivery.

(c) Anything to the contrary herein notwithstanding, the parties hereto may deem and treat the bearer of any definitive Trust Certificate (unless such Trust Certificate be registered as to principal in the name of the holder as provided in this Agreement) and the bearer of any dividend warrant as the absolute owner of such Trust Certificate, or dividend warrant, as the case may be, for the purpose of receiving payment therefor, and for all other purposes, and shall not be affected by any notice to the contrary. The parties hereto may deem and treat the registered holder of any definitive Trust Certificate, registered as to principal, as the absolute owner thereof for all purposes except for the payment of dividends, and the registered holder of any temporary Trust Certificate as the absolute owner thereof for all purposes including the payment of dividends, and shall not be affected by any notice to the contrary.

(d) The Company shall execute its guaranty upon all temporary and definitive Trust Certificates to be issued pursuant to the provisions of this Agreement.

(e) The Trustee shall cause to be kept, at its office in the Borough of Manhattan, City and State of New York, books for the registration and transfer of the Trust Certificates and upon presentation for such purposes the Trustee will register or cause to be registered, as in this Agreement provided and under any such reasonable regulations as it may prescribe, any of the Trust Certificates. The Trustee, at

all times until the payment of the principal of and dividends upon all the Trust Certificates, shall keep an office in the Borough of Manhattan, City and State of New York, where the Trust Certificates and dividend warrants may be presented for payment.

(f) For any registration, transfer or exchange, except in the case of exchange of temporary Trust Certificates for definitive Trust Certificates not registered as to principal, the Trustee at its option may, and if so requested by the Company shall, require the payment of a sum sufficient to reimburse it for any stamp tax or other governmental charge connected therewith.

ARTICLE SIXTH.

The Trustee hereby covenants and agrees to comply with and perform all and singular the terms, conditions and covenants of this Agreement and the Lease obligatory upon it, to enforce the performance, so far as reasonably possible, of the terms and conditions of the Lease, and to apply and distribute the rent under the Lease (other than the advance rent in the amount of One Million Seven Hundred Fifty Two Thousand Five Hundred Seventy Nine Dollars ($1,752,579) required by sub-paragraph (b) of Article First of the Lease and any additional rent which may be paid by the Company in accordance with sub-paragraph (a) or with the last paragraph of Article First of the Lease, which shall be applied by the Trustee to the purchase of the Trust Equipment in accordance with the provisions of Article Second of this Agreement), when and as the same shall be received and to the extent that it shall be sufficient therefor, for the following purposes and in the following order, to-wit:

(First) To the payment of the necessary and reasonable expenses of the Trust connected with the Trust Equipment and usual in cases of trust estates, including the proper compensation of the Trustee for its services under this Agreement and the Lease, and the reasonable expenses incurred by the Trustee in the execution and enforcement of the trust created in this Agreement;

(Second) To the payment of any and all taxes, assessments and other governmental charges upon the Trust Equipment or income of the trust created by this Agreement or upon this Agreement, which the Trustee as such may by law be required to pay;

(Third) To the payment of the dividends payable on and dividend warrants appertaining to the Trust Certificates when and as the same shall become due and payable;

(Fourth) To the payment of the principal amount of the Trust Certificates when and as the same shall become due and payable, whether by declaration or upon the respective dates of maturity thereof, or otherwise;

(Fifth) If default shall have been made in the full payment of any such dividend warrants, dividends or principal, when and as the same shall become due and payable, to interest on such unpaid dividends, dividend warrants or principal at the rate of four per centum (4%) per annum from the respective dates upon which the same shall have so become due and payable.

Nothing herein or in the Trust Certificates or said Lease contained shall be deemed to impose on the Trustee or on

the Company any obligation to pay to the bearer or registered holder of any Trust Certificate or to the bearer of any dividend warrant any amount required by any law of the United States of America or of any State or subdivision thereof to be withheld from the amount payable to the holder of any Trust Certificate or dividend warrant.

In order to prevent any accumulation of Trust Certificates or of dividends or of dividend warrants after maturity, neither the Trustee nor the Company shall directly or indirectly extend or assent to the extension of the time for the payment of any Trust Certificate, dividend or dividend warrant, but the same shall be paid and cancelled at maturity, and no Trust Certificate or dividend warrant in substitution therefor shall be issued, and neither the Trustee nor the Company shall directly or indirectly be a party to or approve of any arrangement for purchasing or funding any of the Trust Certificates, dividends or dividend warrants, or for an advance or loan upon the same, at or after maturity. In case the time for payment of any Trust Certificate, dividend or dividend warrant shall be so extended, whether or not such extension be by or with the consent of the Trustee or the Company, or in case, at or after maturity, any Trust Certificate, dividend or dividend warrant shall be purchased or funded, or an advance or loan upon the same shall be made, by or on behalf of the Trustee or the Company, or pursuant to any arrangement requested or approved by either of them or to which either of them shall be a party or made with the privity of the Trustee or the Company, such Trust Certificate, dividend or dividend warrant shall not be entitled to the benefit of the Lease or of this Agreement, except subject to the prior payment in full of the principal of all other Trust Cer-

tificates, dividends and dividend warrants whether the same be then matured or unmatured.

In case any Trust Certificate and the Dividend Warrants appurtenant thereto (if any) shall become mutilated, lost, stolen or destroyed, then on the terms herein set forth, and not otherwise, the Trustee shall upon the written request of the Company execute and deliver a new Trust Certificate (and the Company at the request of the Trustee shall execute its guaranty thereon), with all unmatured and all matured but unpaid dividend warrants, appurtenant thereto, of like maturity, tenor and date, and bearing the same serial number as the one mutilated, lost, stolen or destroyed, in exchange and substitution for, and upon cancellation of, the mutilated Trust Certificate and Dividend Warrants, or in lieu of or in substitution for the same if lost, stolen or destroyed. The applicant for a new Trust Certificate shall furnish to the Trustee and to the Company evidence to their satisfaction of the loss, theft or destruction of such Trust Certificate and Warrants alleged to have been lost, stolen or destroyed, and of the ownership and authenticity of such mutilated, lost, stolen or destroyed Trust Certificate and Warrants, and also such security and indemnity as may be required by the Trustee and by the Company in their discretion; and shall pay all expenses and charges of such substitution or exchange. All Trust Certificates are held and owned upon the express condition that the foregoing provisions are exclusive in respect of the replacement of mutilated, lost, stolen or destroyed Trust Certificates and Warrants, and shall preclude any and all other rights and remedies, any law or statute now existing or hereafter enacted to the contrary notwithstanding.

Every new Trust Certificate and dividend warrant issued pursuant to this Article Sixth shall constitute an additional interest in the trust created in this Agreement and an additional contractual obligation on the part of the Company, to the same extent as if originally created hereunder, whether or not the lost, stolen or destroyed Trust Certificate and/or dividend warrant be at any time found by anyone, and such new Trust Certificate and/or dividend warrant shall be equally entitled to the benefits of the Lease and this Agreement with all other Trust Certificates and/or dividend warrants issued hereunder.

ARTICLE SEVENTH.

The Company hereby accepts and becomes bound by all the terms of this Agreement, and hereby covenants and agrees to make payment of the reasonable compensation and expenses of the Trustee, and of all taxes, assessments and other governmental charges for which the Trustee as such may be liable.

The Company covenants and agrees and unconditionally guarantees that the bearer or registered holder of each of the Trust Certificates shall receive the principal amount thereof, in such coin or currency as, at the time of payment, is legal tender for the payment of public and private debts in the United States of America, when and as the same shall become due and payable, whether at the maturity thereof or by declaration or otherwise, and shall receive dividends thereon in like coin or currency at the rate of one and three quarters per centum (1¾%) per annum from December 10, 1946, payable semi-annually on the tenth day

of June and the tenth day of December in each year to and including the date of maturity of such Trust Certificate, and at the time and place and otherwise as expressed in the Trust Certificates and in the dividend warrants, if any, appertaining thereto; and the Company further covenants and agrees to endorse upon each of the Trust Certificates, at or before the issue and delivery thereof by the Trustee, its guaranty of the prompt payment of the principal thereof and of the dividends thereon, in substantially the form hereinabove in Article Fourth provided. Said guaranty so endorsed shall be signed in the name and on behalf of the Company by such person or persons as shall have been duly authorized by it to sign said guaranty upon its behalf.

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

The Company covenants and agrees to pay all costs, charges and expenses incident to the performance of all terms and conditions of this Agreement on its part to be performed, including, without limiting the generality of the foregoing, all expenses incident to the preparation and execution of the Trust Certificates and dividend warrants,

including the temporary Trust Certificates, the preparation, execution, recording, rerecording, registration, reregistration, filing and refiling hereof and of the Lease and of any instruments executed under the provisions hereof or of the Lease in respect of the Trust Equipment, including any equipment or parts used to replace any of the Trust Equipment.

The Company covenants and agrees from time to time to do or cause to be done all such acts and to execute or cause to be executed all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute, or cause to be done or executed, for the purpose of fully carrying out and effectuating this Agreement and the Lease and the intent thereof.

ARTICLE EIGHTH.

In case one or more of the events of default described in Article Fifth of the Lease shall happen, the Trustee in its discretion may, and at the request of the bearers or registered holders of twenty per centum (20%) in principal amount of the Trust Certificates then outstanding shall declare the principal of all of the Trust Certificates then outstanding to be due and payable, and thereupon the same shall become and be immediately due and payable. In any such case, the Trustee may retake possession of the Trust Equipment or any part thereof and may either hold or lease the same or any part thereof or dispose of the same or any part thereof in such manner, at public sale, at which the Trustee may be a purchaser, or at private sale, for cash or upon credit, as the Trustee may deem proper and most beneficial to the

interests of the bearers and registered holders of the Trust Certificates.

In case one or more of such events of default shall happen (whether the principal of the Trust Certificates shall have been declared due and payable or not), upon the written request of the bearers or registered holders of twenty per centum (20%) in principal amount of the Trust Certificates at the time outstanding, and upon the Trustee's being indemnified to its satisfaction, it shall be the duty of the Trustee to take all steps which in its judgment shall be necessary for the protection and enforcement of its rights and the rights of the bearers and registered holders of the Trust Certificates, and, unless in its judgment such action shall not be in the interests of the bearers or registered holders of the Trust Certificates, to exercise one or more of the powers of entry, sale or lease, in the Lease conferred, or to take appropriate judicial proceedings by action, suit or otherwise, as the Trustee being advised by counsel shall deem most expedient in the interests of the bearers and registered holders of the Trust Certificates; but, the bearers or registered holders of a majority in principal amount of the Trust Certificates then outstanding shall have the right from time to time to direct and control all proceedings for the enforcement of the Lease and this Agreement and for the sale or lease of the Trust Equipment. The foregoing provisions of this Article Eighth are intended only for the protection of the Trustee and shall not be construed to limit or affect any discretion or power given to the Trustee by any provision of this agreement or of the Lease to determine whether or not it shall take action in respect of any default or what action it shall take, or any power or

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hattan in The City and State of New York. Any new trustee so appointed by the Company shall immediately, and without further act, be superseded by a trustee appointed, in the manner above provided, by the bearers or registered holders of a majority in principal amount of the Trust Certificates at the time outstanding.

Any successor trustee appointed hereunder shall execute, acknowledge and deliver to the Company an instrument accepting such appointment hereunder, and thereupon such successor trustee, without any further act, deed or conveyance, shall become vested with title to the trust estate, and with all the rights, powers, trusts, duties and obligations of its predecessor in trust hereunder, with like effect as if originally named as trustee herein, and the trustee ceasing to act shall, on the written request of such successor trustee, assign and transfer the trust estate or cause the trust estate to be assigned and transferred to the successor trustee, and shall thereupon be entitled to the payment of its charges and expenses theretofore incurred. Upon request of such successor trustee, the Company shall execute and deliver such instruments of further assurance as may reasonably be required for more fully and certainly vesting in and confirming to such successor trustee all the right, title and interest of the predecessor trustee in and to the trust estate and such rights, powers, trusts, duties and obligations. All instruments herein provided for shall be at the cost of the Company.

Any corporation resulting from any merger or consolidation to which the Trustee, or any successor to it, shall be a party, provided such corporation shall possess the qualifications hereinabove specified for a successor trustee hereunder, shall be a successor trustee under this Agreement

without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

ARTICLE TENTH.

The Trustee shall not be liable to any of the parties hereto, or to any of the bearers or registered holders of the Trust Certificates or dividend warrants, for the delivery of any of the Trust Equipment, or for any defect therein or in the title of the Trustee thereto, nor shall anything herein, or in the Lease, be construed as a warranty on the part of the Trustee in respect thereof or as a representation of the value thereof, provided such delivery is made in accordance with the provisions of this Agreement. The Trustee shall be liable only for its own wrongful acts, negligence, default or misconduct.

The Trustee may exercise its powers and perform its duties hereunder and under the Lease by or through such attorneys, agents and servants as it shall appoint and shall be answerable only for its own wrongful acts, negligence, default or misconduct and those of its officers and directors, but not for the default or misconduct of any attorney, agent or servant selected and retained by it in the exercise of reasonable care.

The Trustee shall be under no obligation to take any action toward the execution or enforcement of the trust created by this Agreement, except as required by Article Eighth hereof.

The Trustee in its discretion may advise with legal counsel (who may, in cases deemed by the Trustee in the reasonable exercise of its discretion to be appropriate, be counsel

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for the Company) to be selected and employed by it at the expense of the Company, and anything done or suffered in good faith by the Trustee in accordance with the opinion of such counsel shall be conclusive in favor of the Trustee as against the parties to this Agreement and all bearers and registered holders of the Trust Certificates.

No bearer or registered holder of any Trust Certificate or dividend warrant issued hereunder (other than the bearer or registered holder of all Trust Certificates at the time outstanding) shall have any right to institute any suit, action or proceeding for the execution or enforcement of the trust hereby created unless request in writing by the holders of not less than twenty per centum (20%) in principal amount of the Trust Certificates then outstanding shall have been made upon the Trustee and indemnity furnished as aforesaid, and ninety (90) days shall have elapsed after receipt by the Trustee of such request and it shall have failed or declined to institute any suit or proceedings pursuant thereto.

The Trustee shall not incur any liability to anybody in acting upon any notice, request, consent, order, certificate, warrant, letter, telegram, or other paper or instrument reasonably believed by it to be genuine or authentic and to be signed or sent by the proper party or parties.

The Trustee shall be reimbursed by the Company for, and be indemnified by it against, any expense and any liability and damages which may be sustained by the Trustee hereunder and/or under the Lease unless such liability and/or damages result from the wrongful acts, negligence, default or misconduct of the Trustee.

The Trustee may become the owner of Trust Certificates and dividend warrants issued hereunder with the same rights which it would have if it were not Trustee. The

Trustee shall not be accountable or in any way responsible for or be under any obligation to see to the use, appropriation or application of moneys at any time paid out by it in conformity herewith. The Trustee shall have a right prior to the rights of the bearers and registered holders of Trust Certificates and/or dividend warrants on all moneys coming into its hands hereunder (except those paid to it under the provisions of Article Second hereof) or under the Lease, to payment of any and all liabilities properly incurred by it hereunder and under the Lease, anything herein to the contrary notwithstanding. All representations and recitals contained in this Agreement and in said Lease are made by and on behalf of the Company, and the Trustee shall be in no way responsible therefor, or for any statement contained therein, and the Trustee makes no representations as to the sufficiency of the security purported to be created hereby nor with respect thereto, and the Trustee shall not be responsible in any way for the validity hereof, or of said Lease or of the Trust Certificates or the guaranty thereon or the dividend warrants. No duty of insurance or of repairs or of protection of any of the Trust Equipment is incumbent upon the Trustee. The Trustee shall be under no duty or obligation to see to the filing, registering or recording of this Agreement or the Lease or of any agreement or other instrument executed in respect of the Trust Equipment or parts thereof or of any additional or substituted equipment subjected to this Agreement or the Lease.

Any money received by the Trustee hereunder or under the Lease shall be treated by it, until it is required to pay out the same in conformity herewith, as a special deposit to be held by the Trustee in trust for the purposes set forth in this Agreement and in the Lease, but such money

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need not be segregated. The Trustee may hold such moneys or deposit said moneys in a bank of its own selection.

No recourse under any obligation, covenant or agreement of this Agreement or upon the guaranty of the Company respecting any Trust Certificate or dividend warrant issued hereunder, shall be had against any stockholder, officer or director of the Company, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute or otherwise; it being expressly agreed and understood that this Agreement and said guaranty are solely corporate obligations, and that no personal liability whatever shall attach to or be incurred by the stockholders, officers or directors of the Company, or any of them, under or by reason of any of the obligations, covenants or agreements contained in this Agreement or in the guaranty of the Company respecting any of the Trust Certificates or dividend warrants issued hereunder, or implied therefrom or from any present or future law relative thereto, and that any and all such personal liability, either at common law or in equity, or by statute or constitution, of every such stockholder, officer or director is hereby expressly waived as a condition of and consideration for the execution of this Agreement and the issue of such Trust Certificates and dividend warrants.

Any request or other instrument required by this Agreement or the Lease to be signed or executed by bearers or registered holders of Trust Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such bearers or registered holders in person, or by an agent or attorney appointed by an instrument in writing. Proof of the execution of any such request or other instrument, or of a writing appointing any such

agent or attorney, or of the holding by any person of Trust Certificates, shall be sufficient for any purpose of this Agreement, and shall be conclusive in favor of the Trustee with regard to any action taken by the Trustee under such request or other instrument, if made in the following manner, viz:

(a) The fact and date of the execution by any person of any such request or of any other instrument in writing may be proved by the certificate of any notary public or of any other officer authorized to take, either within or without the State of New York, acknowledgments of deeds to be recorded either in said State or in the state where the acknowledgment may be taken, certifying that the persons signing such request or other instrument acknowledged to him the execution thereof; or by the affidavit of a witness to such execution; and

(b) The amount of Trust Certificates held by any person executing any such request or other instrument as a Trust Certificate holder, the serial numbers of the Trust Certificates held by such person and the date of his holding the same may be proved by a certificate executed by any trust company, bank, bankers or other depositary wheresoever situated whose certificate shall be deemed by the Trustee to be satisfactory, showing that, at the date therein mentioned, such person had on deposit with such depositary, or exhibited to such depositary, the Trust Certificates numbered and described in such certificate. The Trustee may presume the continuance of any such deposit or holding unless and until it receives proof satisfactory to it to the contrary.

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ARTICLE ELEVENTH.

In case of the death of either of the Vendors or the inability for any cause whatsoever of either of the Vendors to act, the other Vendor shall have and discharge all the rights and powers of the Vendors. Any action taken by either of the Vendors shall have the same force and effect as if taken by both of them. Any vacancy in the Vendors may be filled by the remaining Vendor upon a written appointment and a written acceptance filed with the Trustee, and thereupon the person so designated shall be one of the Vendors as fully and completely as though he had been originally named one. The Vendors shall incur no liability hereunder, or under any bill of sale executed by them as herein provided, or for anything other than their own willful default, misconduct or gross neglect. The Vendors shall be entitled to the advice of counsel (who may in appropriate cases be counsel for the Company) and shall be protected by the advice of such counsel in anything done or omitted to be done by them in accordance with such advice.

ARTICLE TWELFTH.

Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon, or to give to any person, firm or corporation other than the parties hereto and their successors and assigns and the bearers and registered holders of the Trust Certificates and the bearers of the dividend warrants appertaining thereto, any right, remedy or claim, under or by reason of this Agreement, or

of any term, covenant or condition hereof; and all of the terms, covenants and conditions, promises and agreements in this Agreement contained shall be for the sole and exclusive benefit of the parties hereto and their successors or assigns and of the bearers and registered holders of the Trust Certificates and the bearers of the dividend warrants.

ARTICLE THIRTEENTH.

The term "Trustee" as used herein and in the Lease shall be held and construed to mean and include J. P. Morgan & Co. Incorporated, its successors and assigns, and any successor trustee under this Agreement; the word "Company" herein, to mean and include Northern Pacific Railway Company, its successors and assigns. The term "Trust Equipment" whenever used herein or in the Lease, unless otherwise indicated by the context, shall mean and include all railroad equipment at any time covered by the Lease or any supplemental lease or this Agreement or required or intended so to be. The term "Lease" whenever used herein, unless otherwise indicated by the context, shall mean and include the Lease of Railroad Equipment prefixed hereto and any and all leases suplemental thereto. The term "Trust Certificate" or "Trust Certificates," whenever used herein or in the Lease, shall mean and include, unless the context otherwise indicates, both temporary and definitive Trust Certificates and the dividend warrants appertaining to the definitive Trust Certificates. The term "State" whenever used without limitation herein or in the Lease shall include the District of Columbia.

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ARTICLE FOURTEENTH.

Whenever under the provisions hereof, it is necessary or proper for any notice or demand to be given to or made upon the Company, or if at any time it is desired to give any such notice or to make any such demand, such notice or demand may be given to or made upon the Company by depositing a written statement thereof, securely enclosed in a postpaid wrapper, in the United States registered mail, directed to the Company at its office in the City of St. Paul, in the State of Minnesota, and an affidavit by any person as to such mailing shall be conclusive evidence of the giving of such notice or the making of such demand. Should any provision of this Agreement or of the Lease be determined to be contrary to law or public policy, the invalidity thereof shall not affect the validity of any other provisions of this Agreement or of the Lease, or of this Agreement or of the Lease as a whole.

ARTICLE FIFTEENTH.

This Agreement may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the Vendors have hereunto set their hands and seals and the Trustee and the Company have caused their names to be signed hereto by their respective officers thereunto duly authorized and their re-

spective corporate seals to be hereto duly affixed, duly attested, as of December 10, 1946.

Walter W. Rich (L. S.)

Thomas A. Moran (L. S.)

Signed, sealed, acknowledged and delivered as to Walter W. Rich and Thomas A. Moran in the presence of:

R H Gallusha

Harry C Emerson

Attesting Witnesses

J. P. MORGAN & CO. INCORPORATED,

By S. W. Cragin

Vice-President.

Attest:

Wm L Carson

Assistant Secretary.

Signed, sealed, acknowledged and delivered as to J. P. Morgan & Co. Incorporated, in the presence of:

R H Gallusha

Harry C Emerson

Attesting Witnesses

NORTHERN PACIFIC RAILWAY COMPANY,

By D. L. Miller Jr

Vice-President.

Attest:

Thos. McLeod

Assistant Secretary.

Signed, sealed, acknowledged and delivered as to Northern Pacific Railway Company in the presence of:

R H Gallusha

Harry C Emerson

Attesting Witnesses

(United States Internal Revenue Stamps for $7,568 have been affixed to an original counterpart hereof in the possession of the Trustee and have been duly canceled.)

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.

I, JOSEPH A. BAMBURY, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 9. day of December, A. D. 1946, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument bearing date as of December 10, 1946, the above named Walter W. Rich and Thomas A. Moran, to me known and known to me to be the persons described in and who executed the foregoing instrument in writing, and the said Walter W. Rich and Thomas A. Moran, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say that the said Walter W. Rich resides at No. 18 Orchard Street, Mount Vernon, New York, and that the said Thomas A. Moran resides at No. 65 Jewel Avenue, Forest Hills, New York, and each acknowledged that he executed, signed, sealed and delivered the above and foregoing instrument as his own free and voluntary act and deed for the consideration, objects, uses and purposes therein stated and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name, and affixed my official seal as such notary public in the said County of New York, State of New York, this the day and year in this my certificate first above written.

Joseph A Bambury
Notary Public N. York State
residing in New York County

JOSEPH A. BAMBURY
Notary Public, New York County
N.Y. Co. Clk's No. 22, Reg. No. 386-B-8
Kings Co. Clk's No. 401, Reg. No. 306-B-8
Commission Expires March 30, 1948

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.

I, JOSEPH A. BAMBURY, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 9... day of December, A. D. 1946, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument bearing date as of December 10, 1946, S. W. Cragin and Wm. L. Carson, each to me personally known and known to me to be respectively a Vice-President and an Assistant Secretary of J. P. Morgan & Co. Incorporated, one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice-President and Assistant Secretary respectively in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and to be duly authorized to make this acknowledgment as hereinafter stated, and the said S. W. Cragin and Wm. L. Carson, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said S. W. Cragin resides at Pheasant Lane, Greenwich, Connecticut; and that the said Wm. L. Carson resides at No. 150 - 16 Tenth Avenue, Whitestone, Long Island, New York; and said S. W. Cragin is a Vice-President and said Wm. L. Carson is

an Assistant Secretary of J. P. Morgan & Co. Incorporated, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said S. W. Cragin and Wm. L. Carson know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the by-laws of such corporation and by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice-President and Assistant Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such notary public, in the said County of New York, State of New York, this the day and year in this my certificate first above written.

Joseph A. Bambury
Notary Public of New York State
residing in New York County

JOSEPH A. BAMBURY
Notary Public, New York County
N.Y.Co.Clk's No. 22, Reg. No. 386-B-S
Kings Co.Clk's No.401, Reg. No.306-B-S
Commission Expires March 30, 1948

STATE OF NEW YORK,
COUNTY OF NEW YORK, } ss.

I, JOSEPH A. BAMBURY, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 7 day of December, A. D. 1946, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, F. G. Hollender and Hugh McLeod, each to me personally known and known to me to be respectively a Vice-President and an Assistant Secretary of Northern Pacific Railway Company, one of the Corporations described in and which executed the within and foregoing instrument in writing dated as of December 10, 1946, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice-President and Assistant Secretary respectively in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such and to be duly authorized to make this acknowledgment as hereinafter stated, and the said F. G. Hollender and Hugh McLeod, being by me severally duly sworn, did on oath each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said F. G. Hollender resides at No. 9206 89th Avenue, Woodhaven 21, New York; and that the said Hugh McLeod resides at No. 1847 Fairmount Avenue, St. Paul, Minnesota; that said F. G. Hollender is a Vice-President and said Hugh McLeod is an Assistant Secretary of Northern Pacific

Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said F. G. Hollender and Hugh McLeod know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the by-laws of such corporation and by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice-President and Assistant Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such notary public, in the said County of New York, State of New York, this the day and year in this my certificate first above written.

Joseph A. Bambury
Notary Public of New York State
residing in New York County

JOSEPH A. BAMBURY
Notary Public, New York County
N.Y.Co.Clk's No. 22, Reg. No. 386-B-S
Kings Co.Clk's No.401, Reg. No.306-B-S
Commission Expires March 30, 1948

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 16th day of
December A. D. 1946 at 10:00
o'clock A.M. and recorded in Vol.
39 of Railroad Mortgages
on pages 314-360, inc.
Robert C. Zimmerman
Assistant Secretary of State

Agreement of Conditional Sale

between

PULLMAN-STANDARD CAR MANUFACTURING COMPANY

and

PACIFIC FRUIT EXPRESS COMPANY

Dated as of July 1, 1946

Covering Sale and Purchase of 500 Freight Refrigerator Cars.

AGREEMENT OF CONDITIONAL SALE

This Agreement, dated as of the 1st day of July, 1946, by and between PULLMAN-STANDARD CAR MANUFACTURING COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Delaware, hereinafter sometimes called "Car Company", party of the first part, and PACIFIC FRUIT EXPRESS COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Utah, hereinafter called "Vendee", party of the second part,

WITNESSETH:

That, in consideration of the mutual promises of the parties hereto, hereinafter set forth, the parties hereto agree as follows:

1. Car Company shall build Five Hundred (500) 80,000-pound capacity steel-sheathed, wood-lined freight refrigerator cars, as described below (hereinafter collectively sometimes called the "cars"), and shall sell and deliver said cars on completion thereof to Vendee f.o.b. rails of trunk line railroads, Milwaukee, Wisconsin, and Vendee shall accept delivery of and purchase said cars on completion thereof, subject to each and all the terms and conditions of this agreement.

DESCRIPTION OF EQUIPMENT.

Five Hundred (500) 80,000-pound capacity steel-sheathed, wood-lined freight refrigerator cars (high tensile steel design), Class R-40-23, with 80,000-pound capacity trucks, convertible ice tanks, air circulating fans and one-

(Fee $14.50) 351

wear wrought steel wheels, in accordance with P. F. E. Specification No. 74-G, dated February 15, 1946.

Lettering—in accordance with P. F. E. Specification No. 74-G and blueprints and specifications furnished.

Car Numbers—47703 to 48202, both inclusive.

Order No. NC-123.

The basic purchase price for each of said cars shall be $7,201.51, f.o.b. rails of trunk line railroads, Milwaukee, Wisconsin, which amount shall be the actual purchase price unless said amount be increased or decreased because of modifications in specifications mutually agreed upon by the parties hereto, or because of conditions as hereinafter in this Section 1 provided, in which event the increased or decreased amount shall be the actual purchase price. Interest shall be paid at the rate of one and sixty-five hundredths per cent (1.65%) per annum upon unpaid balances of the actual purchase price at the time and in the manner specified in Section 2 of this agreement.

It is understood that the base price of $7,201.51, for each car is the net price for the cars, completed and delivered f.o.b. Milwaukee, Wisconsin, as shown on Revision No. 2, dated as of September 27, 1946, to cost sheet attached to and made a part of Vendee's order NC-123, for these cars. Said base price is based on (a) specialties and prices therefor as set forth in original Exhibit "A" attached to said Order No. NC-123, dated May 15, 1946, adjusted for those changes set forth in Revisions thereof to and including said Revision No. 2, dated September 27, 1946; and (b) on prices of all other materials required for said cars quoted by suppliers and on freight rates, in effect as of April 15, 1946, from Car Company's normal sources of supply, as set forth in Car Company's proposal for these cars as of that date.

If there should be any other changes in the specifications or in the price of any specialty used for said cars (excluding all such changes for which adjustment has already been made) affecting the cost of the cars, or if the actual price required to be paid by Car Company for steel, lumber or any other material (other than specialties) required in the building of these cars delivered at Car Company's plant, should be more or less than the prices thereof in effect as of April 15, 1946; or if freight rates charged for the delivery of any such material or for delivery of the cars should be increased or decreased over or under the rates in effect as of April 15, 1946, the above base price of the cars will be increased or decreased accordingly.

2. Vendee shall pay Car Company as the basic purchase price for said cars on the basis of $7,201.51 per freight refrigerator car, f.o.b. Milwaukee, Wisconsin (said price being hereinafter referred to as the "basic purchase price per car"), making an aggregate basic purchase price of $3,600,755.00 for all of said cars, based on the specifications referred to in Section 1 hereof. Any increase or decrease in the basic purchase price per car, because of modifications in the specifications or other conditions hereinbefore in Section 1 hereof set forth, shall be respectively added to, or subtracted from, the basic purchase price per car and the effect of such addition or subtraction shall be added to or subtracted from the aggregate basic purchase price for all of said cars as herein stated and the resulting price per car and aggregate price for all of said cars shall be termed "final purchase price per car" and "final aggregate purchase price", respectively, which terms shall also respectively apply to the basic purchase price per car and the aggregate basic purchase price for all of said cars as hereinabove set forth if there be no change in such prices because of modifications in the specifications or other conditions hereinbefore in Section 1 hereof set forth. Said final

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aggregate purchase price shall be payable to the Car Company at such place within this country as may be designated by the Car Company, as follows:

(a) Upon delivery to the Vendee and its acceptance at the point of delivery above stated, an amount equal to 20% of the final purchase price per car, on the twenty-fifth day of the month following the month in which car is delivered, provided that the sum to be so paid upon the delivery of the last cars to be delivered shall be adjusted so as to make the balance of the final aggregate purchase price unpaid in accordance with this subdivision, $3,180,000.00, or 80% of the final aggregate purchase price, whichever is less.

(b) The sum of $3,180,000.00, or 80% of the final aggregate purchase price, whichever is less, being the unpaid balance of the final aggregate purchase price of the said cars, in twenty-three (23) installments, the first installment to be payable July 1, 1947, in the amount of $125,000.00 and the balance in twenty-two (22) equal semi-annual installments on the first day of January and the first day of July in each year, beginning January 1, 1948, except that the final semi-annual payment shall be in the amount required to pay the entire unpaid balance of the final aggregate purchase price then remaining after application of all previous payments or prepayments credited thereto. If on July 1, 1947, the aggregate unpaid balance of the final purchase price per car of all cars for which payments have been made under subdivision (a) hereof is less than $125,000.00, the difference between such lesser aggregate unpaid balance and $125,000.00 shall be deducted from the first installment payable July 1, 1947, and added to the semi-annual installment payable January 1, 1948.

(c) Interest at the rate of one and sixty-five hundredths per cent (1.65%) per annum, computed on the basis of a three hundred and sixty (360) day year, from the date of payment for each car under subdivision (a) hereof or from July 1, 1947, whichever is earlier, payable semi-annually on July 1 and January 1 on that portion of the final purchase price of each such car which is payable under subdivision (b) hereof from time to time unpaid, such payments of interest to be made simultaneously with the payments of principal provided for in subdivision (b) hereof. The interest payable hereunder from July 1, 1947, shall be payable whether or not all cars have been delivered.

Vendee shall have the right to prepay the then unpaid balance of installments provided for in subdivision (b) hereof at any time on thirty days' previous notice, without premium, either in whole, or in multiples of 5% of such unpaid balance, with interest accrued on the amount of any such prepayment to date of prepayment. Any such prepayment, other than in whole, shall be applied one-half to the earliest maturing installments and one-half to the latest maturing installments.

Vendee shall have the right, at any time during the month of June, 1947, to elect by notifying the Car Company in writing, to pay directly to the Pullman-Standard Car Manufacturing Company (and not to the assignee of this agreement, if any) upon delivery to and acceptance by it, in lieu of the payments provided in subdivisions (a), (b) and (c) hereof, the full final purchase price per car of any cars which, at the time of such election, shall not have been delivered. In the event of such election by the Vendee, the sum of $3,180,000.00, or 80% of the final aggregate purchase price, whichever is less, as set forth in subdivision (b) hereof, and the amount of each of the twenty-two (22) semi-annual installments thereof payable beginning January 1, 1948, shall be reduced in proportion to the number of cars so paid for in full. Title to and property in cars paid for in full, pursuant to such election, shall pass to Vendee without further transfer or act upon the part of Car Company, but Pullman-Standard Car Manufacturing

Company shall, if requested by Vendee so to do, execute and deliver to Vendee a bill of sale covering the cars so paid for in full.

3. Car Company shall give Vendee full opportunity to inspect said cars during the construction thereof at its shops where such cars are being constructed. On completion of each lot of said cars Vendee shall arrange for final inspection thereof and shall have its inspector execute in duplicate the usual form of Certificate of Inspection covering all cars found to be completed in accordance with the plans and specifications. Each such Certificate with respect to the cars covered thereby shall be final and conclusive evidence that such cars conform in workmanship, material, construction, and in all other respects to the requirements and provisions of this agreement. Vendee shall arrange also for acceptance of said cars by a duly authorized agent upon arrival thereof at the place of delivery at Milwaukee, Wisconsin.

4. Car Company shall deliver said cars at Milwaukee, Wisconsin, ready for service and free of all liens and encumbrances and free of any claims of any nature by or in favor of any person or party, and subject only to the reservation of title thereto by Car Company in accordance with the provisions hereof. Delivery of cars shall be commenced on or before January 2, 1947, and shall be completed on or before February 28, 1947; subject to delays due to labor troubles, fires, floods, explosions, or other accidents, or to delays of carriers or of sub-contractors, or in receipt of material, or to any other cause or causes (whether or not of the same general character as those herein specifically enumerated) beyond Car Company's reasonable control.

5. Pullman-Standard Car Manufacturing Company shall indemnify and save harmless Vendee against all claims, suits, actions or other proceedings, and against all expenses

incurred and judgments entered in or as a result of such actions, arising in any way out of alleged infringement of patents covering said cars, or any part or appliance thereof, excepting those patents covering devices and specialties designated by Vendee to be used by Pullman-Standard Car Manufacturing Company in the building of such cars and which are not manufactured by Pullman-Standard Car Manufacturing Company; and Vendee, in like manner, shall indemnify and save harmless Pullman-Standard Car Manufacturing Company against all claims, suits, actions or other proceedings, and against all expenses incurred and judgments entered in or as a result of such actions, arising in any way out of alleged infringement of patents by reason of the use of or incorporation in said cars of any said devices or specialties, so designated by Vendee to be used by Pullman-Standard Car Manufacturing Company in the construction of the cars, and which are not manufactured by Pullman-Standard Car Manufacturing Company.

Prompt notice in writing shall be given by each party to the other of any claim of patent infringement presented to such party with respect to said cars, and the party responsible for such infringement as above provided, shall promptly undertake and assume the defense thereof.

6. All payments by Vendee hereunder shall be free of expenses to Car Company for collection or other charges, and no deductions shall be made therefrom of the amount of any Federal, State or other taxes, assessments or governmental charges hereafter levied or imposed upon said cars or the manufacture thereof, or upon the sale, shipment, delivery or use thereof, and Vendee hereby specifically agrees to pay to Car Company in addition to the above mentioned purchase price of the cars all sales taxes, or like taxes or charges which may be assessed, levied or imposed upon or with respect to the manufacture, sale or delivery

to or use by Vendee of said cars, or any of them, and which Car Company may be legally required to pay to any state or municipality or to the United States of America or other government, but in no event shall Vendee be responsible for or required to pay any present existing gross income tax which may be assessed, levied or imposed upon or with respect to the manufacture, sale or delivery of the cars, any such present existing tax to be borne by Pullman-Standard Car Manufacturing Company. All payments provided for in this agreement shall be made by Vendee to Car Company in such currency of the United States of America as at the time of payment shall be legal tender for payment of public and private debts.

Vendee shall also pay promptly all taxes, assessments and governmental charges which from time to time may be imposed upon the cars, or the earnings arising therefrom, or the operation thereof, or upon Car Company by reason of its ownership thereof, by any government of any country, state or political subdivision thereof, in which the cars may be located, or which shall have jurisdiction over the cars or any part of them, and Vendee agrees at all times to keep the cars free and clear of all tax liens and encumbrances, other than the lien of taxes not yet due or payable; provided, however, that Vendee shall not be required to pay any tax, assessment or other Governmental charge, the validity of which Vendee shall contest in good faith and by appropriate legal proceedings until such contest shall have been decided, unless in the judgment of Car Company its rights and interests in the cars may be materially endangered by such delay.

Vendee shall comply in all respects with all laws of the United States of America and of the States, in or through which the said cars may be operated, covering the use, operation or maintenance of said cars, and with the lawful

rules of the Interstate Commerce Commission with respect to the said cars, and of every other legislative, administrative or judicial body exercising any power or jurisdiction over said cars; and in the event that the said laws or rules require any alterations of any of said cars, or any additional equipment or appliances thereon, Vendee shall conform therewith at its own expense and shall maintain said cars in proper condition for operation under such laws and rules during the life of this contract.

7. Except as provided in Section 2 hereof, Car Company shall retain full legal title to and property in all said cars until Vendee shall have made all the payments and shall have performed all of the covenants in this contract provided to be made, kept or performed by Vendee, notwithstanding the delivery of any or all of the cars to and the possession and use thereof by Vendee as herein provided. Any and all replacements of parts of the cars or additional equipment or facilities installed thereon or therein shall constitute accessions to the cars the title to which shall be immediately vested in Car Company, and which shall be subject to all the terms, reservations and conditions of this contract. When Vendee shall have paid in full the entire purchase price for all of said cars, with interest thereon, and all other payments herein provided to be made by Vendee with respect thereto, title to and property in each and all said cars shall pass to Vendee without further transfer or act on the part of Car Company, but Car Company shall, if requested by Vendee so to do, execute and deliver to Vendee a bill of sale covering the cars when the full purchase price with interest and any and all other payments as aforesaid shall have been fully paid, together with such instrument of satisfaction or release as may be necessary or appropriate for filing or recording in all jurisdictions in which this instrument is

filed, registered or recorded as provided for in Section 18 hereof.

8. The Vendee shall insure and keep insured all the cars against loss or damage, the risk of which is customarily insured against by railroad companies, in such manner and to such amount as is customarily insured by railroad companies.

9. Vendee at its own cost shall keep all said cars in good order and proper running repair and in case of damage thereto by fire, accident or otherwise will promptly repair the car or cars so damaged and restore them to good running order. In case any car shall be damaged beyond repair, lost, or destroyed, Vendee shall replace such car with other equipment of similar type and of substantially as good material and construction. Vendee shall cause any such new equipment to be marked as provided in Section 10 hereof, and to be numbered with the same road number as that of the car so replaced. Title to all such new equipment shall be taken in the name of Car Company and shall be immediately subject to all the terms and conditions of this contract in all respects as though part of the original cars delivered hereunder. Vendee, however, shall have the right, instead of replacing any such lost or destroyed car, to pay to Car Company the then unpaid balance of the purchase price of such car, and such amount, with suitable allowance of interest at rate of one and sixty-five hundredths per cent (1.65%) per annum, shall be credited by Car Company toward payment upon the installment or installments last maturing. Within twenty (20) days after receiving advice of damage to or destruction of any of said cars, Vendee shall give Car Company written notice thereof with full particulars of the extent of the loss or damage incurred. Any failure on the part of Vendee to repair or replace any such car with reasonable promptness or to pay for

each car which may be lost or destroyed, shall entitle Car Company to declare a default hereunder and to take such action as is authorized to be taken by Car Company in case of a default by Vendee in making payment for said cars as herein provided.

Vendee shall permit inspection of said cars from time to time by agents of Car Company and upon request of Car Compay shall furnish from time to time a statement showing the location (as nearly as may be) and condition of said cars and what, if any, substantial repairs have been made upon any of them since the last preceding report.

10. Before delivery of each of said cars to Vendee, Pullman-Standard Car Manufacturing Company shall fasten upon each side of each car a metal plate bearing the following words in letters not less than one inch in height: "Pullman-Standard Car Manufacturing Company, Owner," or, during any time that such metal plates are not reasonably obtainable, such words shall be otherwise plainly, distinctly, permanently and conspicuously marked upon each side of each car. Such plates or marks shall be so located as to be readily visible and to indicate plainly Car Company's ownership of said cars. In the event of a transfer or assignment by Pullman-Standard Car Manufacturing Company of title to the cars or any of them before or contemporaneously with the delivery thereof, the ownership plates or marks referred to in this paragraph may bear the name of the assignee as owner in lieu of the name of the Pullman-Standard Car Manufacturing Company. In case, at any time before all moneys due or to become due by Vendee under this agreement shall have been paid in full, such plates or marks shall at any time be removed, defaced or destroyed, Vendee shall immediately, at its own cost, cause the same to be restored or replaced; and if by reason of change of law or otherwise, additional or other plates or

marks shall be required to protect the interests of Car Company, Vendee shall provide and install and thereafter maintain the same on all such cars.

The cars may be lettered "Pacific Fruit Express Company", "Pacific Fruit Express", "P. F. E.", and may also be numbered for convenience in identification; but, until all moneys due or to become due by it under this agreement shall have been paid in full, Vendee shall not allow the name of any corporation or other party to be placed on any of the cars in such manner that such name or designation might be interpreted as a claim of ownership thereof by any person, association or corporation other than Car Company or its assignee. In case Vendee shall change the number assigned to or placed on any car, immediate notice of such change shall be given to Car Company so that it may correct its records accordingly.

In the event of a transfer or assignment, or successive transfers or assignments by Car Company or its assignees of title to said cars or any of them or of any or all of Car Company's rights hereunder in respect thereof, whenever requested by any such transferee or assignee, Vendee shall change the ownership plates on all such cars to indicate the title of such transferee or assignee to such cars and its succession to any or all rights of Car Company hereunder, but the expense of making such change in plates shall be borne by the party or parties requesting such change in connection with any assignment or transfer subsequent to the first assignment or transfer of any or all of the cars.

11. Vendee shall bear the risk of and shall not be released from its obligations hereunder in the event of any damage to or destruction or loss of any of the said cars from any cause whatsoever after delivery thereof to Vendee. Vendee further agrees to save, indemnify and keep harmless Car Company from and against all loss, damages,

injuries, claims or demands whatsoever, regardless of the cause thereof, in connection with any accident or otherwise arising from or caused by operation or use of said cars while this agreement is in force; provided, however, that the provisions of this Section 11 shall in no way affect the obligations of Pullman-Standard Car Manufacturing Company expressed in Section 5 hereof.

12. All or any of the rights of Car Company under this agreement, including the right to receive the payments herein provided to be made by Vendee, may be assigned by Car Company and reassigned by any assignee at any time and from time to time, provided, however, that no such assignment shall subject any assignee to, or relieve Pullman-Standard Car Manufacturing Company or the successor or successors to its manufacturing properties or business from any of the obligations of Pullman-Standard Car Manufacturing Company as to the construction or delivery of the cars or as to any indemnity with respect thereto, or from any other duty, obligation or liability, except the duty to execute necessary and proper instruments of transfer as and when Vendee shall be entitled thereto pursuant to the provisions of Section 7 hereof, and provided further, that no such assignment shall be deemed to enlarge the obligations of Pullman-Standard Car Manufacturing Company, or, the Vendee having failed to make any payment or perform any obligation upon its part to be made or performed, subject the Pullman-Standard Car Manufacturing Company to any liability resulting from any action taken by any assignee or any failure of any assignee to comply with any of the provisions hereof or of any applicable law in the enforcement of any rights of Pullman-Standard Car Manufacturing Company which may be assigned pursuant to this Section 12 hereof or relieve Vendee of its obligations to Car Company under Sections 5 and 6 hereof.

Upon any such assignment the assignor shall give written notice to the Vendee, together with a counterpart or certified copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all of the Car Company's right, title and interest in and to the cars and each and every part thereof, subject only to such reservations as may be contained in such assignment. From and after the receipt by Vendee of the notification of any such assignment, all payments thereafter to be made by Vendee hereunder shall, to the extent so assigned, be made to the assignee or upon its written order.

In the event that this agreement is assigned by Car Company, or reassigned by any assignee, as herein provided, the rights of such assignee to the entire unpaid purchase price or such part thereof as may be assigned, and interest thereon, as well as any other rights as may be so assigned hereunder shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of Pullman-Standard Car Manufacturing Company or the successor or successors to its manufacturing properties or business in respect to the cars or the manufacture or delivery thereof, or in respect of any indemnity herein contained, nor subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to Vendee by Pullman-Standard Car Manufacturing Company or the successor or successors to its manufacturing properties or business. Any and all such obligations, howsoever arising, shall be and remain enforceable by Vendee against and only against Pullman-Standard Car Manufacturing Company and the successor or successors to its manufacturing properties or business, and shall not be enforceable against any party or parties in whom title to

the cars or any of them, or the rights of Car Company hereunder, shall vest by reason of any sale, assignment or transfer, or successive sales, assignments or transfers.

The term "Car Company" whenever used in this agreement means, before any assignment of all or any rights of Car Company hereunder as hereinbefore provided in this Section 12, Pullman-Standard Car Manufacturing Company, and after any such assignment, the assignee or assignees for the time being of all of the rights hereunder, or in the event of any assignment of any less than all of the rights hereunder, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also the assignor as regards any rights hereunder that are retained and excluded from such assignment; and the term "Pullman-Standard Car Manufacturing Company" whenever used in this contract means, both before and after any such assignment, the party hereto of the first part, and any successor or successors for the time being to its manufacturing properties or business.

13. (a) In case Vendee shall make default in the payment of any installment of the purchase price of the cars or interest thereon herein provided for and shall remain in default for more than thirty (30) days after such payment shall have become due and payable, or shall be in default under the provisions of Section 14 hereof; or shall fail or refuse to comply with any other of the terms and covenants in this agreement on its part to be kept and performed, or to make provisions satisfactory to Car Company for such compliance, and any such failure or refusal, other than a default under Section 14 hereof or a default in the payment of a semi-annual installment of the purchase price of the cars or interest thereon as provided hereunder, shall continue for more than thirty (30) days after notice in writing thereof to Vendee, then in any such case (herein sometimes

called "events of default") and at any time thereafter during the continuance of such default Car Company without further notice or demand, except to the extent necessary in order to comply with any mandatory legal requirements then in force and applicable to such action by Car Company, may declare the entire unpaid balance of the purchase price of the cars immediately due and payable, without further demand, together with interest thereon at the rate of one and sixty-five hundredths per cent (1.65%) per annum to such date of default; and thereafter interest shall be payable by Vendee upon any portion thereof overdue during such time as it shall remain overdue at rate of four per cent (4%) per annum; and Car Company shall thereupon be entitled to recover judgment for the entire amount so payable by Vendee with interest thereon at said rate, and to collect such judgment out of any property of Vendee wherever situated. Car Company may, at its election (and, if before sale or before completion of other enforcement of this agreement, all costs and expenses of Car Company incidental to any such default and to the enforcement by Car Company of the provisions hereof, and all sums which shall then have become due and payable by Vendee hereunder, other than such part of said purchase price as shall have become due only because of a declaration of default under this section as aforesaid, shall have been paid by Vendee, and all other existing events of default shall have been remedied, or provision therefor satisfactory to Car Company shall have been made, then and in every such case the Car Company shall) waive any such event of default and its consequences and rescind and annul any such declaration or termination by notice to Vendee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such cured default had existed and no such declaration or termination had been made; but no such waiver, rescission or annulment

shall limit or affect Car Company's right, upon any other default, to declare the unpaid balance of said purchase price due as aforesaid, or extend to or affect any other default, or impair any rights or remedies consequent thereon.

(b) If Vendee shall make default as hereinabove provided, then at any time after such notice of declaration of default and during the continuance of such default Car Company without further notice or demand, except to the extent necessary in order to comply with any such mandatory legal requirements, may take or cause to be taken by its agent or agents immediate possession of the cars, or any of them, and/or any replacements and improvements, and all present and future attachments and accessories thereof, without liability to return to Vendee any sums theretofore paid, and free from all claims whatsoever except as hereinafter in this Section 13 expressly provided, and may remove the same from the use and possession of Vendee and for such purpose may enter upon Vendee's premises where any of the cars may be located, and may use and employ in connection with such removal any available trackage and other facilities or means of Vendee, without process of law; and Vendee shall assemble and deliver the cars, with all replacements, improvements, equipment, attachments and accessories thereof, at its own cost at such place or places as Car Company may reasonably designate, and in case of such retaking or delivery Car Company shall have the right to store the same upon the premises of Vendee without charge until Car Company shall desire to remove the same therefrom. The assembling and delivery of the cars as hereinbefore provided are of the essence of this agreement between the parties and upon application to any court of equity having jurisdiction in the premises, Car Company shall be entitled to a decree against Vendee requiring specific performance hereof.

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(c) If Vendee shall make default as hereinbefore provided, then at any time thereafter during the continuance of such default, and after declaring the entire purchase price immediately due and payable as hereinbefore provided, Car Company with or without retaking possession thereof may sell the cars or any of them, and all replacements thereof, and all improvements, equipment, attachments and accessories placed thereon, free from any and all claims of Vendee, or of any other party claiming by, through or under it at law or in equity, at public or private sale and with or without advertisement as Car Company may determine, all subject to and in compliance with any mandatory legal requirements then in force and applicable to such sale. To the extent permitted by any such legal requirements, any sale or sales hereunder may be held or conducted at such location and at such time or times as Car Company may fix, in one lot and as an entirety or in separate lots, and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as Car Company may determine in compliance with any such mandatory legal requirements, provided that written notice of such sale shall be given to Vendee at least ten (10) days prior thereto, by telegram or registered mail addressed to Vendee at its office in San Francisco, California, or such other notice, if any, as may be necessary to comply with any such mandatory legal requirements. If such sale shall be a private sale permitted by such legal requirements, it shall be subject to the right of Vendee to purchase or provide a purchaser, within ten (10) days after notice of the proposed sale price, at the same or better price as offered by the intending purchaser. To the extent not prohibited by any legal requirements then in force and applicable to such sale, Car Company may itself bid for and become the purchaser of the cars, or any of them so offered for sale without accountability to Vendee (except to

the extent of surplus money received as hereinafter provided in the last paragraph of this Section 13) and in payment of such purchase price Car Company shall be entitled to the extent aforesaid to have credited on account thereof all sums due to Car Company from Vendee hereunder.

(d) Each and every power or remedy hereby specifically given to Car Company shall be in addition to every other power or remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by Car Company. All such powers and remedies shall be cumulative and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of Car Company in the exercise of any such power or remedy, and no renewal or extension of any payments due hereunder, shall impair any such power or remedy, or shall be construed to be a waiver of any default, or an acquiescence therein.

(e) If Car Company shall exercise any of the powers or remedies conferred upon it hereunder, Vendee shall have the right after all sums due hereunder to Car Company shall have been received by it in full, including its proper costs and expenses incident to the collection thereof, to require title to any of the cars, if not previously sold or otherwise disposed of by Car Company pursuant to the provisions hereof, to be transferred and assigned by Car Company to Vendee free from any further liabilities or obligations to Car Company. If after applying all sums of money realized by Car Company under the remedies herein provided, there shall remain any amount due it under the provisions of this agreement, Vendee shall pay the amount of such deficit to Car Company. If after applying as aforesaid all sums realized by Car Company there shall

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remain a surplus in the possession of Car Company, such surplus shall be paid to Vendee.

14. Vendee shall not assign or transfer this agreement or any of its rights hereunder, or transfer or sublet the said cars or any of them without Car Company's written consent first had and obtained, and shall not cause or permit any of said cars to be pledged or held for any debt or obligation owing by Vendee or to be in any manner encumbered, and shall not suffer the said cars or any of them to pass out of Vendee's control except that Vendee, so long as it shall not be in default under this Agreement, shall be entitled to the possession of the cars and to use or permit the use of the same upon lines of railroads constituting the Union Pacific lines and Southern Pacific lines and upon other railroads in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this agreement, and may receive compensation for such use.

The filing by Vendee or by creditors of Vendee of any petition for reorganization (or debt adjustment affecting the obligations of Vendee under this agreement) under Chapter X or Chapter XI of the Bankruptcy Act or under any amendment or revision thereof or under any other provision of the Bankruptcy Act as now or hereafter existing, or any voluntary assignment or transfer of Vendee's interest in and under this agreement, or any involuntary transfer of such interest by bankruptcy, or by the appointment of a receiver or trustee, or by execution, or by any judicial or administrative decree or process, or otherwise (unless such petition shall be dismissed or such assignment, transfer, decree or process shall within thirty (30) days from the filing or other effective date thereof, be nullified, stayed or otherwise rendered ineffective, or unless any such receiver(s) or trustee(s) shall within thirty (30) days from the date of his or their appointment adopt this

agreement pursuant to due authority of the court of his or their appointment), shall be deemed a breach of this agreement and a default hereunder; whereupon Car Company may elect to declare the entire unpaid balance of the purchase price immediately due and payable as hereinbefore provided and may thereupon forthwith retake possession of the cars or any of them and exercise and enforce any and all other remedies as provided by Section 13 hereof.

15. Wherever provision is made in this agreement for any notice or demand to or upon Vendee, or if at any time, Car Company shall desire to give notice to or make any demand upon Vendee, the same may be given or made by depositing a written statement thereof, enclosed in a postpaid envelope in any United States Post Office, directed to Vendee by registered mail at its office, No. 85 Second Street, San Francisco 5, California, or at such other address as Vendee may specify in writing, and an affidavit by any person so depositing such notice in respect of such mailing shall be deemed to be and shall be conclusive evidence of the giving and receipt of such notice and of the making of such demand.

16. Any provision of this agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this agreement into an instrument other than an agreement of conditional sale, shall as to such state be ineffective, without modifying as to such state the remaining provisions of this agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by Vendee to the full extent permitted by law.

17. Any extension of time granted by Car Company to Vendee for the payment of any sum due under this agreement shall not be deemed a waiver of the title of Car Com-

pany reserved hereunder nor of any of its rights and remedies hereunder or otherwise existing.

18. Vendee at its own expense shall cause this agreement, and the first assignment thereof, to be filed, registered and recorded wherever required for the proper protection of the title of Pullman-Standard Car Manufacturing Company, or its first assignee, to the cars and any replacement or replacements thereof, and of its rights under this agreement; and Vendee shall from time to time do and perform any other act, and will execute, acknowledge, deliver, file, register and record any and all further instruments, required by law or reasonably requested by Pullman-Standard Car Manufacturing Company, or its first assignee, for the purpose of such protection of its title and rights, or for the purpose of carrying out the intention of this agreement.

19. Vendee shall pay also all costs, charges and expenses, except counsel fees of Pullman-Standard Car Manufacturing Company or of any assignee, incident to the preparation, execution, acknowledgment, filing, registering and recording of this agreement and of any instrument supplemental hereto or amendatory hereof above referred to, excepting only assignments or instruments of transfer subsequent to the first assignment or transfer between Pullman-Standard Car Manufacturing Company and its assignee or assignees.

20. This agreement may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

21. This agreement of conditional sale, together with the specifications hereinabove referred to, constitutes the

entire agreement between Vendee and Car Company with respect to the construction, delivery and sale of the cars above referred to. No variation or modification of this agreement, and no waiver of any of its provisions or conditions, shall be valid unless in writing and signed by duly authorized officers of Vendee and Car Company.

IN WITNESS WHEREOF, Car Company and Vendee, respectively, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names and their respective corporate seals to be hereunto affixed, duly attested as of the day and year first above written.

PULLMAN-STANDARD CAR MANUFACTURING COMPANY,

By James B Rosser
Vice President.

[CORPORATE SEAL]

Attest: H E Macdonald
Assistant Secretary.

Signed, sealed and delivered in the presence of:
John Doto
Jere

PACIFIC FRUIT EXPRESS COMPANY,

By E D Conrad
President.

[CORPORATE SEAL]

Attest: A. Sherwood
Secretary.

Signed, sealed and delivered in the presence of:
J. P. McNair
Geo. G. Reeves

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

BE IT REMEMBERED, and I do hereby certify that on this 9th day of January, A. D., 1947 before me, WALTER F. GRAF, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared J. B. ROSSER, Vice President, and H. G. MACDONALD, Assistant Secretary, of Pullman-Standard Car Manufacturing Company, a corporation incorporated and existing under and by the laws of the State of Delaware, and one of the corporations described in and which, as party of the first part, executed the within and foregoing instrument, dated as of July 1, 1946, who are known to me to be Vice President and Assistant Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Assistant Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Assistant Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Assistant Secretary, respectively, and the said H. G. MACDONALD, as Assistant Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Assistant Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Assistant Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Assistant Secretary, respectively, for the uses, purposes and considerations, therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said J. B. ROSSER and H. G. MACDONALD, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said J. B. ROSSER, resides in Scarsdale, N. Y., and is Vice President and an officer, and that he, said H. G. MACDONALD, resides in Bronxville, N. Y., and is Assistant Secretary and an officer, of said Pullman-Standard Car Manufacturing Company, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said J. B. ROSSER and H. G. MACDONALD acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the State of New York.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire March 30, 1947.

I am not a stockholder, director or officer of or in Pullman-Standard Car Manufacturing Company.

Walter F. Graf

Appearers:

James B. Rosser

H. G. Macdonald

Attesting Witnesses:

John Potts

Walter F. Graf
Notary Public in the State of New York
Residing in Kings County
Kings Co. Clk's No. 859, Reg. No. 653-G-7
Certificates Filed In
N. Y. Co. Clk's No. 1305, Reg. No. 948-G-7
Bronx Co. Clk's No. 70, Reg. No. 327-G-7
Queens Co. No. 2475, Reg. No. 355-G-7
Commission Expires March 30, 1947

[NOTARIAL SEAL]

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

BE IT REMEMBERED, and I do hereby certify that on this 25th day of Dec, A. D., 1946, before me, FRANK E. TILLEY, the undersigned and subscriber, a Notary Public duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared E. B. CONRAD, President, and A. C. SHERWOOD, Secretary, of Pacific Fruit Express Company, a corporation incorporated and existing under and by the laws of the State of Utah and one of the corporations described in and which, as party of the second part, executed the within and foregoing instrument, dated as of July 1, 1946, who are known to me to be the President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such President and Secretary, respectively, and they severally signed and delivered said instrument before me and in the presence of the two subscribing legal witnesses as President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as President and Secretary, respectively, and the said A. C. SHERWOOD, as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses, they severally upon oath acknowledged themselves to be President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument they, as such President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such President and Secretary, respectively, for the uses, purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said E. B. CONRAD and A. C. SHERWOOD, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said E. B. CONRAD, resides in New Rochelle, N. Y., and is President and an officer, and that he, said A. C. SHERWOOD, resides in Paterson, N. J., and is Secretary and an officer of said Pacific Fruit Express Company, the corporation described in and which executed the above instrument, as above designated; that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said E. B. CONRAD and A. C. SHERWOOD acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the State of New York.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire March 30, 1947.

I am not a stockholder, director or officer of or in Pacific Fruit Express Company.

Frank E. Tilley

Appearers:

E. B. Conrad

A. C. Sherwood

Attesting Witnesses:

G. F. McNair

Fred G. Reney

Frank E. Tilley
Notary Public, State of New York
Residing in Kings County
Kings County Clerk's No. 210
N. Y. County Clerk's No. 79
Commission Expires March 30, 1947

[NOTARIAL SEAL]

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Agreement and Assignment

between

PULLMAN-STANDARD CAR MANUFACTURING COMPANY

and

MELLON NATIONAL BANK AND TRUST COMPANY

Dated as of July 1, 1946

Relating to Agreement of Conditional Sale between Pullman-Standard Car Manufacturing Company and Pacific Fruit Express Company, dated as of July 1, 1946, covering Sale and Purchase of 500 Freight Refrigerator Cars.

AGREEMENT AND ASSIGNMENT

This Agreement and Assignment, dated as of the 1st day of July, 1946, between PULLMAN-STANDARD CAR MANUFACTURING COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Delaware (hereinafter called "Car Company") and MELLON NATIONAL BANK AND TRUST COMPANY, a corporation organized and existing under and by virtue of the laws of the United States of America (hereinafter designated as "Assignee"), WITNESSETH THAT:

WHEREAS, an agreement of conditional sale (hereinafter referred to as the "agreement of conditional sale") was made between Car Company and Pacific Fruit Express Company as of July 1, 1946, for the construction and sale by Car Company of Five Hundred (500) freight refrigerator cars (hereinafter collectively sometimes called the "cars") and for the delivery thereof by Car Company f. o. b. rails of trunk line railroads, Milwaukee, Wisconsin, all in accordance with and subject to the terms and conditions set forth therein, said agreement of conditional sale being prefixed hereto and made a part hereof; and

WHEREAS, Assignee has offered to purchase from Car Company and Car Company has agreed to assign and transfer to Assignee all of its right, title and interest in, to and under said agreement of conditional sale, including the right to collect and receive all payments to become due and payable thereunder from said Pacific Fruit Express Company;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS THAT:

1. Car Company, in consideration of the amounts hereinafter agreed to be paid by Assignee, does hereby sell, assign, transfer and set over unto Assignee, its successors and assigns, all its right, title and interest in, to and under

the time of their delivery (except any design or articles specified or required by the Pacific Fruit Express Company and not manufactured by Car Company) infringes any patent.

8. It is mutually agreed that the Assignee may assign its rights under the agreement of conditional sale in respect of all or any designated number of said cars, including the right to receive any payments due or to become due to it from the Pacific Fruit Express Company thereunder in respect to such cars. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all of the obligations of the Assignee hereunder.

9. The Car Company covenants and agrees that it will, from time to time and at all times, at the request of the Assignee, or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises, to give effect to the provisions herein set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

10. The Car Company covenants and agrees that, at the time of delivery of each car to Pacific Fruit Express Company, Car Company will fasten upon each side of each car a metal plate bearing the following words in letters not less than one inch in height: "Mellon National Bank and Trust Company, Owner, by assignment from Pullman-Standard Car Manufacturing Company, Vendor." or, if such metal plates are not reasonably obtainable, such words shall be otherwise plainly, distinctly, permanently and conspicuously marked upon each side of each car.

11. This agreement and assignment may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

IN WITNESS WHEREOF, Car Company and Assignee, respectively, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names and their respective corporate seals to be hereunto affixed, duly attested, as of the day and year first above written.

PULLMAN-STANDARD CAR MANUFACTURING COMPANY,
By James B Rosser
Vice President.

[CORPORATE SEAL]

Attest: H G Macdonald
Assistant Secretary.

Signed, sealed and delivered in the presence of:
John Pote
Clerk

MELLON NATIONAL BANK AND TRUST COMPANY,
By Fredrick Gwinner
Vice President.

[CORPORATE SEAL]

Attest:
E D Hayes
Secretary.

Signed, sealed and delivered in the presence of:
W D Clapperd
C J Robinson

STATE OF NEW YORK, } ss.:
COUNTY OF NEW YORK, }

BE IT REMEMBERED, and I do hereby certify that on this 9th day of January, A. D., 1947 before me, WALTER F. GRAF, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared J. B. ROSSER, Vice President, and H. G. MACDONALD, Assistant Secretary, of Pullman-Standard Car Manufacturing Company, a corporation incorporated and existing under and by the laws of the State of Delaware and one of the corporations described in and which executed the within and foregoing instrument, dated as of July 1, 1946, who are known to me to be Vice President and Assistant Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Assistant Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Assistant Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Assistant Secretary, respectively, and the said H. G. MACDONALD, as Assistant Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Assistant Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Assistant Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Assistant Secretary, respectively, for the uses and purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said J. B. ROSSER and H. G. MACDONALD, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said J. B. ROSSER, resides in Scarsdale, N. Y., and is Vice President and an officer, and that he, said H. G. MACDONALD, resides in Bronxville, N. Y., and is Assistant Secretary and an officer, of said Pullman-Standard Car Manufacturing Company, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said J. B. ROSSER and H. G. MACDONALD acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the State of New York.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire March 30, 1947.

I am not a stockholder, director or officer of or in Pullman-Standard Car Manufacturing Company.

Walter F. Graf
Notary Public in the State of New York
Residing in Kings County
Kings Co. Clk's No. 859, Reg. No. 653-G-7
Certificates Filed In
N. Y. Co. Clk's No. 1305, Reg. No. 948-G-7
Bronx Co. Clk's No. 70, Reg. No. 327-G-7
Queens Co. No. 2475, Reg. No. 355-G-7
Commission Expires March 30, 1947

[NOTARIAL SEAL]

Appearers:
James B Rosser
H G Macdonald

Attesting Witnesses:
John Pote
Clerk

COMMONWEALTH OF PENNSYLVANIA, } ss.:
COUNTY OF ALLEGHENY, }

BE IT REMEMBERED, and I do hereby certify that on this 4th day of Jan., A. D., 1947 before me, ROBERT KANE, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared FREDERICK GWINNER, Vice President, and E. D. HAYES, Secretary, of Mellon National Bank and Trust Company, a corporation incorporated and existing under and by the laws of the United States of America and one of the corporations described in and which executed the within and foregoing instrument, dated as of July 1, 1946, who are known to me to be Vice President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Secretary, respectively, and the said E. D. HAYES, as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Secretary, respectively, for the uses, purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said FREDERICK GWINNER and E. D. HAYES, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said FREDERICK GWINNER, resides in Pittsburgh, Pa., and is Vice President and an officer, and that he, said E. D. HAYES, resides in Mt. Lebanon Township, Allegheny County, Pa., and is Secretary and an officer, of said Mellon National Bank and Trust Company, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said FREDERICK GWINNER and E. D. HAYES acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the Commonwealth of Pennsylvania.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire January 24, 1947.

I am not a stockholder, director or officer of or in Mellon National Bank and Trust Company.

Robert Kane
Robert Kane, Notary Public
My Commission Expires
Jan. 24, 1947

[NOTARIAL SEAL]

Appearers:
Fredrick Gwinner
E D Hayes

Attesting Witnesses:
W D Clapperd
C J Robinson

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 13TH day of JANUARY A. D. 1947 at 10:00 o'clock A.M. and recorded in Vol. 39 of RAILROAD MORTGAGES on pages 351 ET SEQ.
Robert C. Zimmerman
Secretary of State

Executed in 20
Counterparts
Counterpart No 6

Supplemental Agreement

DATED AS OF DECEMBER 27, 1946

BETWEEN

FAIRBANKS, MORSE & CO.

AND

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

AMENDING CONDITIONAL SALE AGREEMENT DATED AS OF JULY 1, 1946, TO PERMIT DELIVERY OF FOUR CERTAIN LOCOMOTIVES ON BUYER'S TRACKS, MILWAUKEE, WISCONSIN, ON OR BEFORE MARCH 31, 1947.

Supplemental Agreement and Assignment

DATED AS OF DECEMBER 31, 1946

BETWEEN

FAIRBANKS, MORSE & CO.

AND

THE FIRST NATIONAL BANK OF CHICAGO

THE GUNTHORP-WARREN PRINTING COMPANY, 310 WEST JACKSON, CHICAGO

This Supplemental Agreement, Dated as of December 27, 1946, by and between **FAIRBANKS, MORSE & CO.**, a corporation of the State of Illinois, with an office and place of business in the City of Chicago, Illinois, (hereinafter sometimes referred to as the "Seller"), as party of the first part, and **CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY**, a corporation organized and existing under the laws of the State of Wisconsin, (hereinafter sometimes referred to as the "Buyer"), as party of the second part;

WITNESSETH, That:

WHEREAS, the Seller and the Buyer entered into a written Conditional Sale Agreement, dated as of July 1, 1946, covering the construction, sale and delivery by the Seller, and the purchase and acceptance by the Buyer, of five (5) new 6000 horsepower Diesel Electric Passenger Locomotives, bearing Buyer's Road Numbers 5A, 5B, 5C to 9A, 9B, 9C, both inclusive, upon and subject to the terms and conditions as provided therein; and

WHEREAS, the Seller entered into a written Agreement and Assignment, dated as of July 5, 1946, with The First National Bank of Chicago, a national banking association having its principal office in the City of Chicago, State of Illinois, whereby the Seller sold, assigned, transferred and set over unto said Bank, as Assignee, all of the right, title and interest of the Seller under said Conditional Sale Agreement in and to said Locomotives upon and subject to the terms and conditions as provided therein; and

WHEREAS, said Conditional Sale Agreement and said Agreement and Assignment, which were filed, registered and recorded, as required by law, in the States of Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Hennepin County in the State of Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, King County in

the State of Washington, and Wisconsin, provided that the parties thereto would be released from their several obligations thereunder with respect to such of said Locomotives as shall not have been delivered on Buyer's tracks at Milwaukee, Wisconsin, on or before January 1, 1947; and

WHEREAS, because of delays due to causes beyond the control of the parties thereto, the four Diesel Electric Passenger Locomotives, which are to bear Buyer's Road Numbers 6A, 6B, 6C to 9A, 9B, 9C, both inclusive, will not be delivered on Buyer's tracks at Milwaukee, Wisconsin, on or before January 1, 1947, and the parties hereto desire to amend said Conditional Sale Agreement to provide that said Locomotives may be delivered on Buyer's tracks at Milwaukee, Wisconsin, on or before March 31, 1947;

NOW, THEREFORE, in consideration of the premises and the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

1. The fifth paragraph of Section 1, being the first paragraph on Page 3 of said Conditional Sale Agreement, dated as of July 1, 1946, is hereby amended to read as follows:

> "In case all of the units of the equipment shall not be delivered as aforesaid on or before March 31, 1947, the parties hereto shall be released from their several obligations under this Agreement, with respect to such units of equipment as shall not have been delivered as aforesaid on or before March 31, 1947."

2. Said Conditional Sale Agreement, dated as of July 1, 1946, as herein amended shall remain and continue in full force and effect between the parties hereto, in accordance with the terms, conditions and provisions thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective proper

officers and their respective seals to be hereunto affixed, duly attested by their respective Secretaries or Assistant Secretaries, all as of the day, month and year first herein written.

FAIRBANKS, MORSE & CO.
By _____
Vice President.

Attest:
_____
Assistant Secretary.

Signed, sealed and delivered by Fairbanks, Morse & Co. in the presence of:
_____
_____
Attesting Witnesses.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,
By _____
Vice President and Comptroller.

Attest:
_____
Secretary.

Signed, sealed and delivered by Chicago, Milwaukee, St. Paul and Pacific Railroad Company in the presence of:
_____
_____
Attesting Witnesses.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, Agnes Mogge, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements, and hereditaments in said County, DO HEREBY CERTIFY that on the 31st day of Jan, 1947, personally appeared before me within said County and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, the within named S. T. KIDNOO and E. T. SANDEEN, to me personally known and known to me to be, respectively, a Vice President and an Asst. Secretary of Fairbanks, Morse & Co., the corporation described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Asst. Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said S. T. KIDNOO and E. T. SANDEEN, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that said S. T. KIDNOO resides in Chicago in the State of Ill, and that said E. T. SANDEEN resides in Oak Park in the State of Ill; that said S. T. KIDNOO is a Vice President and said E. T. SANDEEN

is an Asst. Secretary of Fairbanks, Morse & Co., the corporation described in and which executed the within and foregoing instrument in writing; that they, said S. T. KIDNOO, a Vice President, and E. T. SANDEEN, an Asst. Secretary, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto by authority of the Board of Directors of said corporation; that they and each of them signed their names to, and executed, the foregoing instrument in their respective capacities as a Vice President and an Asst. Secretary in behalf of said corporation by like authority; that they signed, sealed with the corporate seal, executed and delivered said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and that they severally duly acknowledged said instrument to be the free and voluntary act and deed of said corporation and that said corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public in said County of Cook, State of Ill, this the day and year in this my certificate first above written.

My commission as such Notary Public Expires [illegible]

(Notarial Seal) Agnes Mogge
Notary Public in and for the State of Ill, County of Cook

Form 13A

STATE OF ILLINOIS, COOK COUNTY. } ss.

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, Do HEREBY CERTIFY that I am the lawful custodian of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of magistracy, that Agnes Mogge whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, or to the jurat thereto, was, at the time of taking such proof of acknowledgment, a Notary Public in and for Cook County, duly commissioned, sworn and acting as such Notary Public, to take acknowledgments and proofs of deeds or conveyances of lands, tenements or hereditaments, in said State of Illinois, and to administer oaths; all of which appears from the records and files in my office; that I am well acquainted with the handwriting of said Notary and verily believe that the signature to the said proof of acknowledgment is genuine; and, further, that the annexed instrument is executed and acknowledged according to the laws of the State of Illinois.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County of Cook at my office in the City of Chicago, in the said County, this 22nd day of Jan 1947

Michael J. Flynn
County Clerk.

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STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, R. W. SPANGENBERG, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, DO HEREBY CERTIFY that on the 18th day of January, 1947, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, the within named J. W. Severs and T. W. Burtness, to me personally known and known to me to be, respectively, Vice President and Comptroller and (——) Secretary of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the corporation described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Comptroller and (——) Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said J. W. Severs and T. W. Burtness, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that said J. W. Severs resides in Evanston in the State of Illinois, and that said T. W. Burtness resides in Oak Park in the State of Illinois; that said J. W. Severs is Vice President and Comptroller and said T. W. Burtness is (——) Secretary of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the corporation described in and which executed the within

and foregoing instrument in writing; that they, said J. W. Severs, Vice President and Comptroller, and T. W. Burtness, (——) Secretary, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto by authority of the Board of Directors of said corporation; that they and each of them signed their names to, and executed, the foregoing instrument in their respective capacities as Vice President and Comptroller and (——) Secretary in behalf of said corporation by like authority; that they signed, sealed with the corporate seal, executed and delivered said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and that they severally duly acknowledged said instrument to be the free and voluntary act and deed of said corporation and that said corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public in said County of Cook, State of Illinois, this the day and year in this my certificate first above written.

My commission as such Notary Public expires November 12, 1947

R. W. Spangenberg
Notary Public in and for the State of Illinois, County of Cook.

Form 13A

STATE OF ILLINOIS, COOK COUNTY. } ss.

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, Do HEREBY CERTIFY that I am the lawful custodian of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of magistracy, that R. W. Spangenberg whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, or to the jurat thereto, was, at the time of taking such proof of acknowledgment, a Notary Public in and for Cook County, duly commissioned, sworn and acting as such Notary Public, to take acknowledgments and proofs of deeds or conveyances of lands, tenements or hereditaments, in said State of Illinois, and to administer oaths; all of which appears from the records and files in my office; that I am well acquainted with the handwriting of said Notary and verily believe that the signature to the said proof of acknowledgment is genuine; and, further, that the annexed instrument is executed and acknowledged according to the laws of the State of Illinois.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County of Cook at my office in the City of Chicago, in the said County, this 22nd day of Jan 1947

Michael J. Flynn
County Clerk.

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This Supplemental Agreement and Assignment, dated as of December 31, 1946, by and between **FAIRBANKS, MORSE & CO.**, a corporation of the State of Illinois, with an office and place of business in the City of Chicago, Illinois, (hereinafter sometimes referred to as the "Seller"), as party of the first part, and **THE FIRST NATIONAL BANK OF CHICAGO**, a national banking association duly organized and existing under the laws of the United States of America, with its principal office and place of business in the City of Chicago, Illinois, (hereinafter sometimes referred to as the "Assignee"), as party of the second part;

WITNESSETH, That:

WHEREAS, the Seller and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, (hereinafter sometimes referred to as the "Buyer"), entered into a written Conditional Sale Agreement, dated as of July 1, 1946, covering the construction, sale and delivery by the Seller, and the purchase and acceptance by the Buyer, of five (5) new 6000 horsepower Diesel Electric Passenger Locomotives, bearing Buyer's Road Numbers 5A, 5B, 5C to 9A, 9B, 9C, both inclusive; upon and subject to the terms and conditions as provided therein; and

WHEREAS, the Seller and the Assignee entered into a written Agreement and Assignment, dated as of July 5, 1946, whereby the Seller sold, assigned, transferred and set over unto said Assignee all of the right, title and interest of the Seller under said Conditional Sale Agreement in and to said Locomotives on the terms and conditions as provided therein; and

WHEREAS, the Seller and the Buyer entered into a written Supplemental Agreement, dated as of December 27, 1946, whereby said Conditional Sale Agreement, dated as of

July 1, 1946, was amended to provide that the four (4) of the 6000 horsepower Diesel Electric Passenger Locomotives covered thereby, and yet to be delivered, being the ones which are to bear Buyer's Road Numbers 6A, 6B, 6C to 9A, 9B, 9C, both inclusive, may be delivered on Buyer's tracks at Milwaukee, Wisconsin, on or before March 31, 1947; and

WHEREAS, the Seller and the Assignee desire to amend said Agreement and Assignment, dated as of July 5, 1946, to provide for the sale, assignment, transfer and setting over by the Seller unto the Assignee of all of the right, title and interest of the Seller under said Conditional Sale Agreement, so amended, in and to said four (4) 6000 horsepower Diesel Electric Passenger Locomotives;

NOW, THEREFORE, for value received and in consideration of the premises and the acceptance of the amendments to said Agreement and Assignment by the Assignee on the terms and conditions hereinafter set forth, the parties hereto do hereby agree as follows:

1. The first paragraph of the preamble to said Agreement and Assignment dated as of July 5, 1946, is hereby amended to read as follows:

"WHEREAS, the Seller and Chicago, Milwaukee, St. Paul and Pacific Railroad Company (hereinafter sometimes referred to as the "Buyer"), have entered into a Conditional Sale Agreement, dated as of July 1, 1946, and the Seller and the Buyer have entered into a Supplemental Agreement, dated as of December 27, 1946, amending said Conditional Sale Agreement (said Conditional Sale Agreement, as amended, being hereinafter sometimes referred to as the "Agreement"), covering the construction and sale by the Seller, and the purchase by the Buyer, on the conditions set forth in said Agreement, of five (5) new 6000 horsepower Diesel Electric Passenger Locomotives, bearing Buyer's Road Numbers 5A, 5B, 5C, and 6A, 6B, 6C, and 7A, 7B, 7C, and 8A, 8B, 8C, and 9A, 9B, 9C (hereinafter sometimes referred to as the "Equipment"), all as more particularly described in said Agreement, for an aggregate purchase price of Two Million, Six Hundred Seventy-five Thousand Dollars ($2,675,000.00), payable with interest as provided therein."

2. Section 2, Section 3 and Section 6 of said Agreement and Assignment, dated as of July 5, 1946, are hereby amended to provide that the date, "January 1, 1947", now appearing in each of said Sections, shall be changed in each instance to read "March 31, 1947."

3. Said Agreement and Assignment, dated as of July 5, 1946, as hereby amended, shall remain and continue in full force and effect between the parties hereto, in accordance with the terms, conditions and provisions thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement and Assignment to be duly executed by their respective proper officers, and their respective seals to be hereunto affixed and duly attested by their respective Secretaries or Assistant Secretaries or Cashiers or Assistant Cashiers, all as of the day, month and year first herein written.

FAIRBANKS, MORSE & CO.,

By _____

Vice President.

Attest:

_____

Assistant Secretary.

Signed, sealed and delivered by Fairbanks, Morse & Co., in the presence of:

_____

_____

Attesting Witnesses.

THE FIRST NATIONAL BANK OF CHICAGO,

By J. E. Wirick
Ass't. *Vice President.*

Attest:

Assistant Cashier.

Signed, sealed and delivered by The First National Bank of Chicago, in the presence of:

Attesting Witnesses.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, Agnes Moggs a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments, and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, DO HEREBY CERTIFY that on the 20th day of Jan, 1947, personally appeared before me within said County and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, the within named S. T. KIDDOO and E. T. SANDEEN, to me personally known and known to me to be, respectively, a Vice President and an Assistant Secretary of Fairbanks, Morse & Co., the corporation described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice-President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said S. T. KIDDOO and E. T. SANDEEN, being by me severally duly sworn, did on oath, each for himself and not one for the other severally depose and say and acknowledge in the presence of said witnesses that said S. T. KIDDOO resides in Chicago, in the State of Illinois, and that said ____ resides in Oak Park, in the State of Illinois; that said S. T. KIDDOO is a Vice President and said ____ is an Assistant Secretary of Fairbanks, Morse & Co., the corporation described in and

which executed the within and foregoing instrument in writing; that they, said S. T. KIDDOO, a Vice President, and ____, an Assistant Secretary, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto by authority of the Board of Directors of said corporation; that they and each of them signed their names to, and executed, the foregoing instrument in their respective capacities as a Vice-President and an Assistant Secretary in behalf of said corporation by like authority; that they signed, sealed with the corporate seal, executed and delivered said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and that they severally duly acknowledged said instrument to be the free and voluntary act and deed of said corporation and that said corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public in said County of Cook, State of Illinois, this the day and year in this my certificate first above written.

My Commission as such Notary Public expires ____

(Notarial Seal)

Agnes Moggs
Notary Public in and for the State of Illinois, County of Cook.

Form 13A

STATE OF ILLINOIS, } ss.
COOK COUNTY. }

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, Do HEREBY CERTIFY that I am the lawful custodian of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of magistracy, that Agnes Moggs whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, was, at the time of taking such proof of acknowledgment, a Notary Public in and for Cook County, duly commissioned, sworn and acting as such and authorized to take acknowledgments and proofs of deeds or conveyances of lands, tenements or hereditaments, in said State of Illinois, and to administer oaths; all of which appears from the records and files in my office; that I am well acquainted with the handwriting of said Notary and verily believe that the signature to the said proof of acknowledgment is genuine; and, further, that the annexed instrument is executed and acknowledged according to the laws of the State of Illinois.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County of Cook at my office in the City of Chicago, in the said County, this 22d day of Jan 1947

Michael J. Flynn
County Clerk.

637 27254

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, Elsie M. Lund, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, DO HEREBY CERTIFY that on the 22nd day of January, 1947, personally appeared before me within said County and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, the within named J. E. Strick and John T. Evans, to me personally known and known to me to be, respectively, a Ass't Vice President and Assistant Cashier of The First National Bank of Chicago, the national banking association described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Ass't Vice President and Assistant Cashier, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said J. E. Strick and John T. Evans, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that said J. E. Strick resides in Evanston, in the State of Illinois, and that said John T. Evans resides in Chicago, in the State of Illinois; that said J. E. Strick is Ass't Vice President and said John T. Evans is

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Assistant Cashier of The First National Bank of Chicago, the national banking association described in and which executed the within and foregoing instrument in writing; that they, said J. E. Brick and Asst. Vice President and Assistant Cashier, respectively, know the corporate seal of said national banking association; that the seal affixed to said instrument as the seal of said national banking association is such corporate seal; that it was so affixed thereto by authority of the Board of Directors of said national banking association; that they and each of them signed their names to, and executed, the foregoing instrument in their respective capacities as Asst. Vice President and Assistant Cashier in behalf of said national banking association by like authority; that they signed, sealed with the corporate seal, executed and delivered said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said national banking association for the consideration, objects, uses and purposes therein stated and set forth; and that they severally duly acknowledged said instrument to be the free and voluntary act and deed of said national banking association and that said national banking association executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public in said County of Cook, State of Illinois, this the day and year in this my certificate first above written.

My Commission as such Notary Public expires Feb. 6th, 1948

Elsie M. Lund

Notary Public in and for the State of Illinois, County of Cook.

Form 113A

STATE OF ILLINOIS, } ss.
COOK COUNTY. }

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, Do HEREBY CERTIFY that I am the lawful custodian of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of notarizing, that Elsie M. Lund whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, was, at the time of taking such proof of acknowledgment, a Notary Public in and for Cook County, duly commissioned, sworn and acting as such and authorized to take acknowledgments and proofs of deeds or conveyances of land, tenements or hereditaments, in said State of Illinois, and to administer oaths; all of which appears from the records and files in my office; that I am well acquainted with the handwriting of said Notary and verily believe that the signature to the said proof of acknowledgment is genuine; and further, that the annexed instrument is executed and acknowledged according to the laws of the State of Illinois.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said County of Cook at my office in the City of Chicago, in the said County, this 22nd day of January, 1947.

J. Michael Flynn
County Clerk.

State of Wisconsin } ss.
DEPARTMENT OF STATE }

Received this 23rd day of JANUARY A. D. 1947 at 10:00 o'clock A.M. and recorded in Vol. 39 of RAILROAD MORTGAGES on pages 369-377, INCL.

Assistant Secretary of State

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AGREEMENT OF CONDITIONAL SALE

This Agreement, dated as of the 1st day of July, 1946, by and between GENERAL AMERICAN TRANSPORTATION CORPORATION, a corporation organized and existing under and by virtue of the laws of the State of New York, hereinafter sometimes called "Car Company", party of the first part, and PACIFIC FRUIT EXPRESS COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Utah, hereinafter called "Vendee", party of the second part,

WITNESSETH:

That, in consideration of the mutual promises of the parties hereto, hereinafter set forth, the parties hereto agree as follows:

1. Car Company shall build Five Hundred (500) 80,000-pound capacity steel-sheathed, wood-lined freight refrigerator cars, as described below (hereinafter collectively sometimes called the "cars"), and shall sell and deliver said cars on completion thereof to Vendee f.o.b. rails of trunk line railroads, Milwaukee, Wisconsin, and Vendee shall accept delivery of and purchase said cars on completion thereof, subject to each and all the terms and conditions of this agreement.

DESCRIPTION OF EQUIPMENT.

Five Hundred (500) 80,000-pound capacity steel-sheathed, wood-lined freight refrigerator cars (high tensile steel design), Class R-40-23, with 80,000-pound capacity trucks, convertible ice tanks, air circulating fans and chilled

(Fee $14.00)

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cast iron wheels, in accordance with P. F. E. Specification No. 74-G, dated February 15, 1946.

Lettering—in accordance with P. F. E. Specification No. 74-G and blueprints and specifications furnished.

Car Numbers—47203 to 47702, both inclusive.

Order No. NC-122.

The basic purchase price for each of said cars shall be $7,204.50, f.o.b. rails of trunk line railroads, Milwaukee, Wisconsin, which amount shall be the actual purchase price unless said amount be increased or decreased because of modifications in specifications mutually agreed upon by the parties hereto, or because of conditions as hereinafter in this Section 1 provided, in which event the increased or decreased amount shall be the actual purchase price. Interest shall be paid at the rate of one and sixty-five hundredths per cent (1.65%) per annum upon unpaid balances of the actual purchase price at the time and in the manner specified in Section 2 of this agreement.

It is understood that the basic price of $7,204.50 for each car is based upon specialties and material prices currently quoted as of the date hereof and is subject to change to compensate, (a) for any changes in specifications affecting the cost of the cars, (b) for any change in specialty and material prices from prices currently quoted, as above, or (c) for any change in freight rates on such materials or for delivery of the cars.

2. Vendee shall pay Car Company as the basic purchase price for said cars on the basis of $7,204.50 per freight refrigerator car, f.o.b. Milwaukee, Wisconsin (said price being hereinafter referred to as the "basic purchase price per car"), making an aggregate basic purchase price of $3,602,250.00 for all of said cars, based on the specifications referred to in Section 1 hereof. Any increase or decrease

in the basic purchase price per car, because of modifications in the specifications or other conditions hereinbefore in Section 1 hereof set forth, shall be respectively added to, or subtracted from, the basic purchase price per car and the effect of such addition or subtraction shall be added to or subtracted from the aggregate basic purchase price for all of said cars as herein stated and the resulting price per car and aggregate price for all of said cars shall be termed "final purchase price per car" and "final aggregate purchase price", respectively, which terms shall also respectively apply to the basic purchase price per car and the aggregate basic purchase price for all of said cars as hereinabove set forth if there be no change in such prices because of modifications in the specifications or other conditions hereinbefore in Section 1 hereof set forth. Said final aggregate purchase price shall be payable to the Car Company at such place within this country as may be designated by the Car Company, as follows:

(a) Upon delivery to the Vendee and its acceptance at the point of delivery above stated, an amount equal to 20% of the final purchase price per car, on the twenty-fifth day of the month following the month in which the car is delivered, provided that the sum to be so paid upon the delivery of the last cars to be delivered shall be adjusted so as to make the balance of the final aggregate purchase price unpaid in accordance with this subdivision $3,180,000.00, or 80% of the final aggregate purchase price, whichever is less.

(b) The sum of $3,180,000.00, or 80% of the final aggregate purchase price, whichever is less, being the unpaid balance of the final aggregate purchase price of the said cars, in twenty-three (23) installments, the first installment to be payable July 1, 1947, in the amount of $125,000.00 and the balance in twenty-two (22) equal semi-annual installments on the first day of January and the first day of July

in each year, beginning January 1, 1948, except that the final semi-annual payment shall be in the amount required to pay the entire unpaid balance of the final aggregate purchase price then remaining after application of all previous payments or prepayments credited thereto. If on July 1, 1947, the aggregate unpaid balance of the final purchase price per car of all cars for which payments have been made under subdivision (a) hereof is less than $125,000.00, the difference between such lesser aggregate unpaid balance and $125,000.00 shall be deducted from the first installment payable July 1, 1947, and added to the semi-annual installment payable January 1, 1948.

(c) Interest at the rate of one and sixty-five hundredths per cent (1.65%) per annum, computed on the basis of a three hundred and sixty (360) day year, from the date of payment for each car under subdivision (a) hereof or from July 1, 1947, whichever is earlier, payable semi-annually on July 1 and January 1 on that portion of the final purchase price of each such car which is payable under subdivision (b) hereof from time to time unpaid, such payments of interest to be made simultaneously with the payments of principal provided for in subdivision (b) hereof. The interest payable hereunder from July 1, 1947, shall be payable whether or not all cars have been delivered.

Vendee shall have the right to prepay the then unpaid balance of installments provided for in subdivision (b) hereof at any time on thirty days' previous notice, without premium, either in whole, or in multiples of 5% of such unpaid balance, with interest accrued on the amount of any such prepayment to date of prepayment. Any such prepayment, other than in whole, shall be applied one-half to the earliest maturing installments and one-half to the latest maturing installments.

Vendee shall have the right, at any time during the month of June, 1947, to elect by notifying the Car Company

in writing, to pay directly to the General American Transportation Corporation (and not to the assignee of this agreement, if any) upon delivery to and acceptance by it, in lieu of the payments provided in subdivisions (a), (b) and (c) hereof, the full final purchase price per car of any cars which, at the time of such election, shall not have been delivered. In the event of such election by the Vendee, the sum of $3,180,000.00, or 80% of the final aggregate purchase price, whichever is less, as set forth in subdivision (b) hereof, and the amount of each of the twenty-two (22) semi-annual installments thereof payable beginning January 1, 1948, shall be reduced in proportion to the number of cars so paid for in full. Title to and property in cars paid for in full, pursuant to such election, shall pass to Vendee without further transfer or act upon the part of Car Company, but General American Transportation Corporation shall, if requested by Vendee so to do, execute and deliver to Vendee a bill of sale covering the cars so paid for in full.

3. Car Company shall give Vendee full opportunity to inspect said cars during the construction thereof at its shops where such cars are being constructed. On completion of each lot of said cars Vendee shall arrange for final inspection thereof and shall have its inspector execute in duplicate the usual form of Certificate of Inspection covering all cars found to be completed in accordance with the plans and specifications. Each such Certificate with respect to the cars covered thereby shall be final and conclusive evidence that such cars conform in workmanship, material, construction, and in all other respects to the requirements and provisions of this agreement. Vendee shall arrange also for acceptance of said cars by a duly authorized agent upon arrival thereof at the place of delivery at Milwaukee, Wisconsin.

4. Car Company shall deliver said cars at Milwaukee, Wisconsin, ready for service and free of all liens and encumbrances and free of any claims of any nature by or in favor of any person or party, and subject only to the reservation of title thereto by Car Company in accordance with the provisions hereof. Delivery of cars shall be commenced on or before May 1, 1947, and shall be completed on or before July 31, 1947; subject to delays due to labor troubles, fires, floods, explosions, or other accidents, or to delays of carriers or of sub-contractors, or in receipt of material, or to any other cause or causes (whether or not of the same general character as those herein specifically enumerated) beyond Car Company's reasonable control.

5. General American Transportation Corporation shall indemnify and save harmless Vendee against all claims, suits, actions or other proceedings, and against all expenses incurred and judgments entered in or as a result of such actions, arising in any way out of alleged infringement of patents covering said cars, or any part or appliance thereof, excepting those patents covering designs, devices, articles and specialties designated, specified or required by Vendee to be used by General American Transportation Corporation in the building of such cars and which are not manufactured by General American Transportation Corporation; and Vendee, in like manner, shall indemnify and save harmless General American Transportation Corporation against all claims, suits, actions or other proceedings, and against all expenses incurred and judgments entered in or as a result of such actions arising in any way out of alleged infringement of patents by reason of the use of or incorporation in said cars of any said designs, devices, articles and specialties, so designated, specified or required by Vendee to be used by General American Transportation Corporation in the construction of the cars, and which are not manufactured by General American Transportation Corporation.

Prompt notice in writing shall be given by each party to the other of any claim of patent infringement presented to such party with respect to said cars, and the party responsible for such infringement as above provided, shall promptly undertake and assume the defense thereof.

6. All payments by Vendee hereunder shall be free of expenses to Car Company for collection or other charges, and no deductions shall be made therefrom of the amount of any Federal, State or other taxes, assessments or governmental charges hereafter levied or imposed upon said cars or the manufacture thereof, or upon the sale, shipment, delivery or use thereof, and Vendee hereby specifically agrees to pay to Car Company in addition to the above mentioned purchase price of the cars all sales taxes, or like taxes or charges which may be assessed, levied or imposed upon or with respect to the manufacture, sale or delivery to or use by Vendee of said cars, or any of them, and which Car Company may be legally required to pay to any state or municipality or to the United States of America or other government, but in no event shall Vendee be responsible for or required to pay any present existing gross income tax which may be assessed, levied or imposed upon or with respect to the manufacture, sale or delivery of the cars, any such present existing tax to be borne by General American Transportation Corporation. All payments provided for in this agreement shall be made by Vendee to Car Company in such currency of the United States of America as at the time of payment shall be legal tender for payment of public and private debts.

Vendee shall also pay promptly all taxes, assessments and governmental charges which from time to time may be imposed upon the cars, or the earnings arising therefrom, or the operation thereof, or upon Car Company by reason of its ownership thereof, by any government of any country, state or political subdivision thereof, in which the cars may

be located, or which shall have jurisdiction over the cars or any part of them, and Vendee agrees at all times to keep the cars free and clear of all tax liens and encumbrances, other than the lien of taxes not yet due or payable; provided, however, that Vendee shall not be required to pay any tax, assessment or other governmental charge, the validity of which Vendee shall contest in good faith and by appropriate legal proceedings until such contest shall have been decided, unless in the judgment of Car Company its rights and interests in the cars may be materially endangered by such delay.

Vendee shall comply in all respects with all laws of the United States of America and of the States, in or through which the said cars may be operated, covering the use, operation or maintenance of said cars, and with the lawful rules of the Interstate Commerce Commission with respect to the said cars, and of every other legislative, administrative or judicial body exercising any power or jurisdiction over said cars; and in the event that the said laws or rules require any alterations of any of said cars, or any additional equipment or appliances thereon, Vendee shall conform therewith at its own expense and shall maintain said cars in proper condition for operation under such laws and rules during the life of this agreement.

7. Except as provided in Section 2 hereof, Car Company shall retain full legal title to and property in all said cars until Vendee shall have made all the payments and shall have performed all of the covenants in this contract provided to be made, kept or performed by Vendee, notwithstanding the delivery of any or all of the cars to and the possession and use thereof by Vendee as herein provided. Any and all replacements of parts of the cars or additional equipment or facilities installed thereon or therein shall constitute accessions to the cars the title to which

shall be immediately vested in Car Company, and which shall be subject to all the terms, reservations and conditions of this agreement. When Vendee shall have paid in full the entire purchase price for all of said cars, with interest thereon, and all other payments herein provided to be made by Vendee with respect thereto, title to and property in each and all said cars shall pass to Vendee without further transfer or act on the part of Car Company, but Car Company shall, if requested by Vendee so to do, execute and deliver to Vendee a bill of sale covering the cars when the full purchase price with interest and any and all other payments as aforesaid shall have been fully paid, together with such instrument of satisfaction or release as may be necessary or appropriate for filing or recording in all jurisdictions in which this instrument is filed, registered or recorded as provided for in Section 18 hereof.

8. The Vendee shall insure and keep insured all the cars against loss or damage, the risk of which is customarily insured against by railroad companies, in such manner and to such amount as is customarily insured by railroad companies.

9. Vendee at its own cost shall keep all said cars in good order and proper running repair and in case of damage thereto by fire, accident or otherwise will promptly repair the car or cars so damaged and restore them to good running order. In case any car shall be damaged beyond repair, lost, or destroyed, Vendee shall replace such car with other equipment of similar type and of substantially as good material and construction. Vendee shall cause any such new equipment to be marked as provided in Section 10 hereof, and to be numbered with the same road number as that of the car so replaced. Title to all such new equipment shall be taken in the name of Car Company and shall

be immediately subject to all the terms and conditions of this agreement in all respects as though part of the original cars delivered hereunder. Vendee, however, shall have the right, instead of replacing any such lost or destroyed car, to pay to Car Company the then unpaid balance of the purchase price of such car, and such amount shall be credited by Car Company toward payment upon the installment or installments last maturing. Within twenty (20) days after receiving advice of damage to or destruction of any of said cars, Vendee shall give Car Company written notice thereof with full particulars of the extent of the loss or damage incurred. Any failure on the part of Vendee to repair or replace any such car with reasonable promptness or to pay for each car which may be lost or destroyed, shall entitle Car Company to declare a default hereunder and to take such action as is authorized to be taken by Car Company in case of a default by Vendee in making payment for said cars as herein provided.

Vendee shall permit inspection of said cars from time to time by agents of Car Company and upon request of Car Company shall furnish from time to time a statement showing the location (as nearly as may be) and condition of said cars and what, if any, substantial repairs have been made upon any of them since the last preceding report.

10. Before delivery of each of said cars to Vendee, General American Transportation Corporation shall fasten upon each side of each car a metal plate bearing the following words in letters not less than one inch in height: "General American Transportation Corporation, Owner", or, during any time that such metal plates are not reasonably obtainable, such words shall be otherwise plainly, distinctly, permanently and conspicuously marked upon each side of each car. Such plates or marks shall be so located as to be

readily visible and to indicate plainly Car Company's ownership of said cars. In the event of a transfer or assignment by General American Transportation Corporation of title to the cars or any of them before or contemporaneously with the delivery thereof, the ownership plates or marks referred to in this paragraph may bear the name of the assignee as owner in lieu of the name of the General American Transportation Corporation. In case, at any time before all moneys due or to become due by Vendee under this agreement shall have been paid in full, such plates or marks shall at any time be removed, defaced or destroyed, Vendee shall immediately, at its own cost, cause the same to be restored or replaced; and if by reason of change of law or otherwise, additional or other plates or marks shall be required to protect the interests of Car Company, Vendee shall provide and install and thereafter maintain the same on all such cars.

The cars may be lettered "Pacific Fruit Express Company", "Pacific Fruit Express", "P. F. E.", and may also be numbered for convenience in identification; but, until all moneys due or to become due by it under this agreement shall have been paid in full, Vendee shall not allow the name of any corporation or other party to be placed on any of the cars in such manner that such name or designation might be interpreted as a claim of ownership thereof by any person, association or corporation other than Car Company or its assignee. In case Vendee shall change the number assigned to or placed on any car, immediate notice of such change shall be given to Car Company so that it may correct its records accordingly.

In the event of a transfer or assignment, or successive transfers or assignments by Car Company or its assignees of title to said cars or any of them or of any or all of Car Company's rights hereunder in respect thereof, whenever

requested by any such transferee or assignee, Vendee shall change the ownership plates on all such cars to indicate the title of such transferee or assignee to such cars and its succession to any or all rights of Car Company hereunder, but the expense of making such change in plates shall be borne by the party or parties requesting such change in connection with any assignment or transfer subsequent to the first assignment or transfer of any or all of the cars.

11. Vendee shall bear the risk of and shall not be released from its obligations hereunder in the event of any damage to or destruction or loss of any of the said cars from any cause whatsoever after delivery thereof to Vendee. Vendee further agrees to save, indemnify and keep harmless Car Company from and against all loss, damages, injuries, claims or demands whatsoever, regardless of the cause thereof, in connection with any accident or otherwise arising from or caused by operation or use of said cars while this agreement is in force; provided, however, that the provisions of this Section 11 shall in no way affect the obligations of General American Transportation Corporation expressed in Section 5 hereof.

12. All or any of the rights of Car Company under this agreement, including the right to receive the payments herein provided to be made by Vendee, may be assigned by Car Company and reassigned by any assignee at any time and from time to time, provided, however, that no such assignment shall subject any assignee to, or relieve General American Transportation Corporation or the successor or successors to its manufacturing properties or business from any of the obligations of General American Transportation Corporation as to the construction or delivery of the cars or as to any indemnity with respect thereto, or from any other duty, obligation or liability, except the duty to exe-

cute necessary and proper instruments of transfer as and when Vendee shall be entitled thereto pursuant to the provisions of Section 7 hereof, and provided further, that no such assignment shall be deemed to enlarge the obligations of General American Transportation Corporation, or, the Vendee having failed to make any payment or perform any obligation upon its part to be made or performed, subject the General American Transportation Corporation to any liability resulting from any action taken by any assignee or any failure of any assignee to comply with any of the provisions hereof or of any applicable law in the enforcement of any rights of General American Transportation Corporation which may be assigned pursuant to this Section 12 hereof or relieve Vendee of its obligations to Car Company under Sections 5 and 6 hereof.

Upon any such assignment the assignor shall give written notice to the Vendee, together with a counterpart or certified copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all of the Car Company's right, title and interest in and to the cars and each and every part thereof, subject only to such reservations as may be contained in such assignment. From and after the receipt by Vendee of the notification of any such assignment, all payments thereafter to be made by Vendee hereunder shall, to the extent so assigned, be made to the assignee or upon its written order.

In the event that this agreement is assigned by Car Company, or reassigned by any assignee, as herein provided, the rights of such assignee to the entire unpaid purchase price or such part thereof as may be assigned, and interest thereon, as well as any other rights as may be so assigned hereunder shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any

breach of any obligation of General American Transportation Corporation or the successor or successors to its manufacturing properties or business in respect to the cars or the manufacture or delivery thereof, or in respect of any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to Vendee by General American Transportation Corporation or the successor or successors to its manufacturing properties or business. Any and all such obligations, howsoever arising, shall be and remain enforceable by Vendee against and only against General American Transportation Corporation and the successor or successors to its manufacturing properties or business, and shall not be enforceable against any party or parties in whom title to the cars or any of them, or the rights of Car Company hereunder, shall vest by reason of any sale, assignment or transfer, or successive sales, assignments or transfers.

The term "Car Company" whenever used in this agreement means, before any assignment of all or any rights of Car Company hereunder as hereinbefore provided in this Section 12, General American Transportation Corporation, and after any such assignment, the assignee or assignees for the time being of all of the rights hereunder, or in the event of any assignment of any less than all of the rights hereunder, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also the assignor as regards any rights hereunder that are retained and excluded from such assignment; and the term "General American Transportation Corporation" whenever used in this agreement means, both before and after any such assignment, the party hereto of the first part, and any successor or successors for the time being to its manufacturing properties or business.

13. (a) In case Vendee shall make default in the payment of any installment of the purchase price of the cars or interest thereon herein provided for and shall remain in default for more than thirty (30) days after such payment shall have become due and payable, or shall be in default under the provisions of Section 14 hereof; or shall fail or refuse to comply with any other of the terms and covenants in this agreement on its part to be kept and performed, or to make provisions satisfactory to Car Company for such compliance, and any such failure or refusal, other than a default under Section 14 hereof or a default in the payment of a semi-annual installment of the purchase price of the cars or interest thereon as provided hereunder, shall continue for more than thirty (30) days after notice in writing thereof to Vendee, then in any such case (herein sometimes called "events of default") and at any time thereafter during the continuance of such default Car Company without further notice or demand, except to the extent necessary in order to comply with any mandatory legal requirements then in force and applicable to such action by Car Company, may declare the entire unpaid balance of the purchase price of the cars immediately due and payable, without further demand, together with interest thereon then accrued and unpaid at the rate of one and sixty-five hundredths per cent (1.65%) per annum to such date of default; and thereafter interest shall be payable by Vendee upon any portion thereof overdue during such time as it shall remain overdue at rate of four per cent (4%) per annum; and Car Company shall thereupon be entitled to recover judgment for the entire amount so payable by Vendee with interest thereon at said rate, and to collect such judgment out of any property of Vendee wherever situated. Car Company may, at its election (and, if before sale or before completion of other enforcement of this agreement, all costs and expenses of Car Company incidental to any such default

and to the enforcement by Car Company of the provisions hereof, and all sums which shall then have become due and payable by Vendee hereunder, other than such part of said purchase price as shall have become due only because of a declaration of default under this section as aforesaid, shall have been paid by Vendee, and all other existing events of default shall have been remedied, or provision therefor satisfactory to Car Company shall have been made, then and in every such case the Car Company shall) waive any such event of default and its consequences and rescind and annul any such declaration or termination by notice to Vendee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such cured default had existed and no such declaration or termination had been made; but no such waiver, rescission or annulment shall limit or affect Car Company's right, upon any other default, to declare the unpaid balance of said purchase price due as aforesaid, or extend to or affect any other default, or impair any rights or remedies consequent thereon.

(b) If Vendee shall make default as hereinabove provided, then at any time after such notice of declaration of default and during the continuance of such default Car Company without further notice or demand, except to the extent necessary in order to comply with any such mandatory legal requirements, may take or cause to be taken by its agent or agents immediate possession of the cars, or any of them, and/or any replacements and improvements, and all present and future attachments and accessories thereof, without liability to return to Vendee any sums theretofore paid, and free from all claims whatsoever except as hereinafter in this Section 13 expressly provided, and may remove the same from the use and possession of Vendee and for such purpose may enter upon Vendee's premises where any of the cars may be located,

and may use and employ in connection with such removal any available trackage and other facilities or means of Vendee, without process of law; and Vendee shall assemble and deliver the cars, with all replacements, improvements, equipment, attachments and accessories thereof, at its own cost at such place or places as Car Company may reasonably designate, and in case of such retaking or delivery Car Company shall have the right to store the same upon the premises of Vendee without charge until Car Company shall desire to remove the same therefrom. The assembling and delivery of the cars as hereinbefore provided are of the essence of this agreement between the parties and upon application to any court of equity having jurisdiction in the premises, Car Company shall be entitled to a decree against Vendee requiring specific performance hereof.

(c) If Vendee shall make default as hereinbefore provided, then at any time thereafter during the continuance of such default, and after declaring the entire purchase price immediately due and payable as hereinbefore provided, Car Company with or without retaking possession thereof may sell the cars or any of them, and all replacements thereof, and all improvements, equipment, attachments and accessories placed thereon, free from any and all claims of Vendee, or of any other party claiming by, through or under it at law or in equity, at public or private sale and with or without advertisement as Car Company may determine, all subject to and in compliance with any mandatory legal requirements then in force and applicable to such sale. To the extent permitted by any such legal requirements, any sale or sales hereunder may be held or conducted at such location and at such time or times as Car Company may fix, in one lot and as an entirety or in separate lots, and without the necessity of gathering at the place of sale the property to be sold, and in general in such

manner as Car Company may determine in compliance with any such mandatory legal requirements, provided that written notice of such sale shall be given to Vendee at least ten (10) days prior thereto, by telegram or registered mail addressed to Vendee at its office in San Francisco, California, or such other notice, if any, as may be necessary to comply with any such mandatory legal requirements. If such sale shall be a private sale permitted by such legal requirements, it shall be subject to the right of Vendee to purchase or provide a purchaser, within ten (10) days after notice of the proposed sale price, at the same or better price than that offered by the intending purchaser. To the extent not prohibited by any legal requirements then in force and applicable to such sale, Car Company may itself bid for and become the purchaser of the cars, or any of them so offered for sale without accountability to Vendee (except to the extent of surplus money received as hereinafter provided in the last paragraph of this Section 13) and in payment of such purchase price Car Company shall be entitled to the extent aforesaid to have credited on account thereof all sums due to Car Company from Vendee hereunder.

(d) Each and every power or remedy hereby specifically given to Car Company shall be in addition to every other power or remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by Car Company. All such powers and remedies shall be cumulative and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of Car Company in the exercise of any such power or remedy, and no renewal or extension of any payments due hereunder, shall impair any such power or remedy, or shall be construed to be a waiver of any default, or an acquiescence therein.

(e) If Car Company shall exercise any of the powers or remedies conferred upon it hereunder, Vendee shall have the right after all sums due hereunder to Car Company shall have been received by it in full, including its proper costs and expenses incident to the collection thereof, to require title to any of the cars, if not previously sold or otherwise disposed of by Car Company pursuant to the provisions hereof, to be transferred and assigned by Car Company to Vendee free from any further liabilities or obligations to Car Company. If after applying all sums of money realized by Car Company under the remedies herein provided, there shall remain any amount due it under the provisions of this agreement, Vendee shall pay the amount of such deficit to Car Company. If after applying as aforesaid all sums realized by Car Company there shall remain a surplus in the possession of Car Company, such surplus shall be paid to Vendee.

14. Vendee shall not assign or transfer this agreement or any of its rights hereunder, or transfer or sublet the said cars or any of them without Car Company's written consent first had and obtained, and shall not cause or permit any of said cars to be pledged or held for any debt or obligation owing by Vendee or to be in any manner encumbered, and shall not suffer the said cars or any of them to pass out of Vendee's control except that Vendee, so long as it shall not be in default under this agreement, shall be entitled to the possession of the cars and to use or permit the use of the same upon lines of railroads constituting the Union Pacific lines and Southern Pacific lines and upon other railroads in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this agreement, and may receive compensation for such use.

The filing by Vendee or by creditors of Vendee of any petition for reorganization (or debt adjustment affecting

the obligations of Vendee under this agreement) under Chapter X or Chapter XI of the Bankruptcy Act or under any amendment or revision thereof or under any other provision of the Bankruptcy Act as now or hereafter existing, or any voluntary assignment or transfer of Vendee's interest in and under this agreement, or any involuntary transfer of such interest by bankruptcy, or by the appointment of a receiver or trustee, or by execution, or by any judicial or administrative decree or process, or otherwise (unless such petition shall be dismissed or such assignment, transfer, decree or process shall within thirty (30) days from the filing or other effective date thereof, be nullified, stayed or otherwise rendered ineffective, or unless any such receiver(s) or trustee(s) shall within thirty (30) days from the date of his or their appointment adopt this agreement pursuant to due authority of the court of his or their appointment) shall be deemed a breach of this agreement and a default hereunder; whereupon Car Company may elect to declare the entire unpaid balance of the purchase price immediately due and payable as hereinbefore provided and may thereupon forthwith retake possession of the cars or any of them and exercise and enforce any and all other remedies as provided by Section 13 hereof.

15. Wherever provision is made in this agreement for any notice or demand to or upon Vendee, or if at any time, Car Company shall desire to give notice to or make any demand upon Vendee, the same may be given or made by depositing a written statement thereof, enclosed in a postpaid envelope in any United States Post Office, directed to Vendee by registered mail at its office, No. 85 Second Street, San Francisco 5, California, or at such other address as Vendee may specify in writing, and an affidavit by any person so depositing such notice in respect of such mailing shall be deemed to be and shall be conclusive evidence of the

giving and receipt of such notice and of the making of such demand.

16. Any provision of this agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this agreement into an instrument other than an agreement of conditional sale, shall as to such state be ineffective, without modifying as to such state the remaining provisions of this agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by Vendee to the full extent permitted by law.

17. Any extension of time granted by Car Company to Vendee for the payment of any sum due under this agreement shall not be deemed a waiver of the title of Car Company reserved hereunder nor of any of its rights and remedies hereunder or otherwise existing.

18. Vendee at its own expense shall cause this agreement, and the first assignment thereof, to be filed, registered and recorded wherever required for the proper protection of the title of General American Transportation Corporation, or its first assignee, to the cars and any replacement or replacements thereof, and of its rights under this agreement; and Vendee shall from time to time do and perform any other act, and will execute, acknowledge, deliver, file, register and record any and all further instruments, required by law or reasonably requested by General American Transportation Corporation, or its first assignee, for the purpose of such protection of its title and rights, or for the purpose of carrying out the intention of this agreement.

19. Vendee shall pay also all costs, charges and expenses, except counsel fees of General American Transpor-

tation Corporation or of any assignee, incident to the preparation, execution, acknowledgment, filing, registering and recording of this agreement and of any instrument supplemental hereto or amendatory hereof above referred to, excepting only assignments or instruments of transfer subsequent to the first assignment or transfer between General American Transportation Corporation and its assignee or assignees.

20. This agreement may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

21. This agreement of conditional sale, together with the specifications hereinabove referred to, constitutes the entire agreement between Vendee and Car Company with respect to the construction, delivery and sale of the cars above referred to. No variation or modification of this agreement, and no waiver of any of its provisions or conditions, shall be valid unless in writing and signed by duly authorized officers of Vendee and Car Company.

IN WITNESS WHEREOF, Car Company and Vendee, respectively, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names and their respective corporate seals to be hereunto affixed, duly attested as of the day and year first above written.

GENERAL AMERICAN TRANSPORTATION CORPORATION,

By W. S. Hefferan Jr. Vice President.

[CORPORATE SEAL]

Attest: Maurice Feldman Secretary.

Signed, sealed and delivered in the presence of:
Leonard B. Hoffman
Jean Wilmet

PACIFIC FRUIT EXPRESS COMPANY,

By E B Conrad President.

[CORPORATE SEAL]

Attest: Ab. Sherwood Secretary.

Signed, sealed and delivered in the presence of:
R. M. Flood
Fred G. Reuss

STATE OF ILLINOIS, } ss.:
COUNTY OF COOK, }

BE IT REMEMBERED, and I do hereby certify that on this 13 day of Feb., A. D., 1947, before me, R. M. FLOOD, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared W. S. HEFFERAN, JR., Vice President, and MAURICE J. FELDMAN, Secretary, of General American Transportation Corporation, a corporation incorporated and existing under and by the laws of the State of New York and one of the corporations described in and which, as party of the first part, executed the within and foregoing instrument, dated as of July 1, 1946, who are known to me to be Vice President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Secretary, respectively, and the said MAURICE J. FELDMAN, as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Secretary, respectively, for the uses, purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said W. S. HEFFERAN, JR., and MAURICE J. FELDMAN, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said W. S. HEFFERAN, JR., resides in Evanston, Illinois, and is Vice President and an officer, and that he, said MAURICE J. FELDMAN, resides in Chicago, Illinois, and is Secretary and an officer, of said General American Transportation Corporation, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said W. S. HEFFERAN, JR., and MAURICE J. FELDMAN acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the State of Illinois.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire June 2, 1949.

I am not a stockholder, director or officer of or in General American Transportation Corporation.

R. M. Flood
R. M. Flood, Notary Public
My Commission Expires June 2, 1949.

[NOTARIAL SEAL]

Appearers: W. S. Hefferan Jr. Maurice Feldman

Attesting Witnesses: Leonard B. Hoffman Jean Wilmet

STATE OF NEW YORK, } ss.:
COUNTY OF NEW YORK, }

BE IT REMEMBERED, and I do hereby certify that on this 4th day of Feb., A. D., 1947, before me, FRANK E. TILLEY, the undersigned and subscriber, a Notary Public duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared E. B. CONRAD, President, and A. C. SHERWOOD, Secretary of Pacific Fruit Express Company, a corporation incorporated and existing under and by the laws of the State of Utah and one of the corporations described in and which, as party of the second part, executed the within and foregoing instrument, dated as of July 1, 1946, who are known to me to be the President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such President and Secretary, respectively, and they severally signed and delivered said instrument before me and in the presence of the two subscribing legal witnesses as President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as President and Secretary, respectively, and the said A. C. SHERWOOD, as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses, they severally upon oath acknowledged themselves to be President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument they, as such President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such President and Secretary, respectively, for the uses, purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said E. B. CONRAD and A. C. SHERWOOD, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said E. B. CONRAD, resides in New Rochelle, N. Y., and is President and an officer, and that he, said A. C. SHERWOOD, resides in Paterson, N. J., and is Secretary and an officer, of said Pacific Fruit Express Company, the corporation described in and which executed the above instrument, as above designated; that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said E. B. CONRAD and A. C. SHERWOOD acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the State of New York.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire March 30, 1947.

I am not a stockholder, director or officer of or in Pacific Fruit Express Company.

Appearers: E B Conrad Ab. Sherwood

Attesting Witnesses: R. M. Flood Fred G. Reuss

Frank E. Tilley
Frank E. Tilley
Notary Public, State of New York
Residing in Kings County
Kings County Clerk's No. 210
N. Y. County Clerk's No. 79
Commission Expires March 30, 1947

[NOTARIAL SEAL]

AGREEMENT AND ASSIGNMENT

This Agreement and Assignment, dated as of the 1st day of July, 1946, between GENERAL AMERICAN TRANSPORTATION CORPORATION, a corporation organized and existing under and by virtue of the laws of the State of New York (hereinafter called "Car Company") and MELLON NATIONAL BANK AND TRUST COMPANY, a corporation organized and existing under and by virtue of the laws of the United States of America (hereinafter designated as "Assignee"), WITNESSETH THAT:

WHEREAS, an agreement of conditional sale (hereinafter referred to as the "agreement of conditional sale") was made between Car Company and Pacific Fruit Express Company as of July 1, 1946, for the construction and sale by Car Company of Five Hundred (500) freight refrigerator cars (hereinafter collectively sometimes called the "cars") and for the delivery thereof by Car Company f.o.b. rails of trunk line railroads, Milwaukee, Wisconsin, all in accordance with and subject to the terms and conditions set forth therein, said agreement of conditional sale being prefixed hereto and made a part hereof; and

WHEREAS, Assignee has offered to purchase from Car Company and Car Company has agreed to assign and transfer to Assignee all of its right, title and interest in, to and under said agreement of conditional sale, including the right to collect and receive all payments to become due and payable thereunder from said Pacific Fruit Express Company;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS THAT:

1. Car Company, in consideration of the amounts hereinafter agreed to be paid by Assignee, does hereby sell, assign, transfer and set over unto Assignee, its successors

and assigns, all its right, title and interest in, to and under the agreement of conditional sale made by Car Company and Pacific Fruit Express Company dated as of July 1, 1946, and all right, title and interest of the Car Company in and to the cars in respect of which the Assignee shall pay to Car Company the purchase price thereof pursuant to Section 4 hereof, together with and including all payments to become due from the Pacific Fruit Express Company under said agreement, provided, however, that this assignment is without any recourse against Car Company for or on account of the failure of the Pacific Fruit Express Company to make any payments provided for in or otherwise to comply with any of the provisions of the said agreement of conditional sale, and provided further that this assignment shall not subject Assignee to or relieve Car Company, or the successor or successors to its manufacturing property or business, from any of the obligations of Car Company to Pacific Fruit Express Company to construct and deliver the cars as in said agreement of conditional sale provided, or to comply with the provisions of Sections 5 and 12 of said agreement of conditional sale, or relieve Pacific Fruit Express Company, so far as the construction, sale and delivery of the cars are concerned under Sections 5 and 6 of said agreement of conditional sale.

2. The rights of Assignee to the entire unpaid purchase price of said Five Hundred (500) freight refrigerator cars, and interest thereon, as well as any other rights as may be so assigned hereunder, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of Car Company, or the successor or successors to its manufacturing properties and business, in respect of the manufacture or delivery of the cars or under Sections 5 and 12 of said agreement of conditional sale, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any

other indebtedness or liability at any time owing to Pacific Fruit Express Company by Car Company, or the successor to its manufacturing business. Any and all such obligations shall be and remain enforceable by the Pacific Fruit Express Company against and only against Car Company and the successor or successors to its manufacturing properties or business, and shall not be enforceable against Assignee or any party or parties in whom title to the cars or any of them or the rights of Car Company under said agreement of conditional sale shall vest by reason of this assignment or transfer or of successive sales, assignments or transfers.

3. Car Company covenants and agrees that it will construct all said cars in full and complete accordance with the specifications and plans, as set forth in said agreement of conditional sale, and will deliver said cars, on completion thereof, to said Pacific Fruit Express Company free of all liens and encumbrances except said agreement of conditional sale, and in accordance with the provisions of said agreement of conditional sale and that, notwithstanding this assignment, it will perform and fully comply with the provisions of Sections 4, 5 and 12 of said agreement of conditional sale. The Car Company further covenants and agrees that it has good and lawful right to sell the cars as aforesaid and that it will warrant and defend the same against the lawful demands of all persons whomsoever based on claims originating prior to the delivery of the cars by the Car Company to Pacific Fruit Express Company; all subject, however, to the provisions of the agreement of conditional sale and the rights of Pacific Fruit Express Company thereunder.

4. Car Company, upon completion and delivery of each lot of said cars, shall execute and deliver to Assignee, for the purpose of effectuating this assignment, one or more bills of sale transferring to Assignee title to all cars in each such lot concurrently with shipment and delivery thereof to

Pacific Fruit Express Company, and shall forward to Assignee, with such executed bills of sale, documents evidencing the delivery of the cars included in each such lot and the acceptance thereof by said Pacific Fruit Express Company, all in accordance with the said agreement of conditional sale.

Upon receipt of each such bill of sale and upon payment by Pacific Fruit Express Company to the Assignee of that portion of the purchase price of the cars covered by such bill of sale which under subdivision (a) of Section 2 of the agreement of conditional sale is payable by Pacific Fruit Express Company upon delivery thereof, Assignee shall pay to the Car Company the sum of $7,204.50 for each and every car so delivered, or (as soon as such final price shall be computed and agreed upon) such greater or lesser sum as shall represent the total purchase price payable with respect to each such car in accordance with Section 1 of said agreement of conditional sale, the total amount to be paid by Assignee for all of said cars being the aggregate purchase price of $3,602,250.00 (unless reduced by payments by Pacific Fruit Express Company, at its election, directly to the Car Company, as permitted by Section 2 of the said agreement of conditional sale) subject to the changes in the purchase price per car provided for in Section 1 of said agreement of conditional sale.

5. Car Company hereby represents and warrants to Assignee and its successors and assigns:

(a) That said agreement of conditional sale was lawfully executed for a valid consideration and that it is a valid existing contract and, according to its terms, binding upon the parties thereto.

(b) That the cars therein provided for are now under construction according to schedule and will be completed and delivered at the time and in the manner in said agreement of conditional sale provided.

(c) That no payments have been made by Pacific Fruit Express Company to Car Company under said agreement of conditional sale and that, upon completion and delivery of said cars, each and all of the installment payments will become due and payable in the amounts and at the times as set forth in said agreement of conditional sale.

6. Without hereby limiting the generality of the foregoing assignment, Car Company hereby authorizes and empowers Assignee to sue for, collect, receive and enforce, in the name of the Assignee, at the expense and liability and for the sole benefit of Assignee, with full power to Assignee to substitute any one or more persons with like power, the payment of all sums and to enforce all action to be taken by Pacific Fruit Express Company under said agreement of conditional sale in respect of said cars.

7. Car Company covenants and agrees with Assignee that in any suit or action brought by Assignee for the recovery of any sum or sums provided in said agreement of conditional sale to be paid by Pacific Fruit Express Company, Car Company will indemnify and keep harmless Assignee from any and all expenses, losses and damages suffered by reason of any defense, setoff, counterclaim or recoupment of Pacific Fruit Express Company arising out of the breach by Car Company of Car Company's obligations to construct and deliver the said cars in accordance with the provisions of said agreement of conditional sale or of Car Company's obligations under Sections 5 and/or 12 of said agreement of conditional sale. Car Company agrees to indemnify, save and keep harmless Assignee from and against any and all royalties, damages, claims, suits, judgments and costs that may arise because of the claim that the use of any design, device, articles or specialty in the construction of the cars and thereon at the time of their delivery (except any design, device, articles or specialty desig-

nated, specified or required by the Pacific Fruit Express Company and not manufactured by Car Company) infringes any patent.

8. It is mutually agreed that the Assignee may assign its rights under the agreement of conditional sale in respect of all or any designated number of said cars, including the right to receive any payments due or to become due to it from the Pacific Fruit Express Company thereunder in respect to such cars. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all of the obligations of the Assignee hereunder.

9. The Car Company covenants and agrees that it will, from time to time and at all times, at the request of the Assignee, or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises, to give effect to the provisions herein set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

10. The Car Company covenants and agrees that, at the time of delivery of each car to Pacific Fruit Express Company, Car Company will fasten upon each side of each car a metal plate bearing the following words in letters not less than one inch in height: "Mellon National Bank and Trust Company, Owner, by assignment from General American Transportation Corporation, Vendor." or, if such metal plates are not reasonably obtainable, such words shall be otherwise plainly, distinctly, permanently and conspicuously marked upon each side of each car.

11. This agreement and assignment may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such coun-

terparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

IN WITNESS WHEREOF, Car Company and Assignee, respectively, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names and their respective corporate seals to be hereunto affixed, duly attested, as of the day and year first above written.

GENERAL AMERICAN TRANSPORTATION CORPORATION,
By W. B. Jefferard
Vice President.

[CORPORATE SEAL]

Attest: Maurice Feldman
Secretary.

Signed, sealed and delivered in the presence of:
Leonell B. Tuffman
Jean Wheeler

MELLON NATIONAL BANK AND TRUST COMPANY,
By Frederick Jensen
Vice President.

[CORPORATE SEAL]

Attest: E. D. Hayes
Secretary.

Signed, sealed and delivered in the presence of:
M. D. Clapper
C. J. Robinson

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STATE OF ILLINOIS, }
COUNTY OF COOK, } ss.:

BE IT REMEMBERED, and I do hereby certify that on this 13 day of Feb, A. D., 1947, before me, R. M. FLOOD, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared W. S. HEFFERAN, JR., Vice President, and MAURICE J. FELDMAN, Secretary, of General American Transportation Corporation, a corporation incorporated and existing under and by the laws of the State of New York and one of the corporations described in and which executed the within and foregoing instrument, dated as of July 1, 1946, who are known to me to be Vice President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Secretary, respectively, and the said MAURICE J. FELDMAN, as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Secretary, respectively, for the uses and purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said W. S. HEFFERAN, JR., and MAURICE J. FELDMAN, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said W. S. HEFFERAN, JR., resides in Evanston, Illinois, and is Vice President and an officer, and that he, said MAURICE J. FELDMAN, resides in Chicago, Illinois, and is Secretary and an officer, of said General American Transportation Corporation, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said W. S. HEFFERAN, JR., and MAURICE J. FELDMAN acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the State of Illinois.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire June 2, 1949.

I am not a stockholder, director or officer of or in General American Transportation Corporation.

Appearers:

W. S. Hefferan Jr.
Maurice J. Feldman

Attesting Witnesses:

Leonard B. Lippman
Jean Weller

R. M. Flood
R. M. Flood, Notary Public
My Commission Expires June 2, 1949.

[NOTARIAL SEAL]

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COMMONWEALTH OF PENNSYLVANIA, }
COUNTY OF ALLEGHENY, } ss.:

BE IT REMEMBERED, and I do hereby certify that on this 8th day of Feb, A. D., 1947, before me, ROBERT KANE, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared FREDERICK GWINNER, Vice President, and E. D. HAYES, Secretary, of Mellon National Bank and Trust Company, a corporation incorporated and existing under and by the laws of the United States of America and one of the corporations described in and which executed the within and foregoing instrument, dated as of July 1, 1946, who are known to me to be Vice President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Secretary, respectively, and the said E. D. HAYES, as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Secretary, respectively, for the uses, purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said FREDERICK GWINNER and E. D. HAYES, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said FREDERICK GWINNER, resides in Pittsburgh, Pa., and is Vice President and an officer, and that he, said E. D. HAYES, resides in Mt. Lebanon Township, Allegheny County, Pa., and is Secretary and an officer, of said Mellon National Bank and Trust Company, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said FREDERICK GWINNER and E. D. HAYES acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the Commonwealth of Pennsylvania.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire January 24, 1951.

I am not a stockholder, director or officer of or in Mellon National Bank and Trust Company.

Appearers:

Frederick Gwinner
E D Hayes

Attesting Witnesses:

W D Clifford
C. Robinson

Robert Kane
ROBERT KANE
Notary Public
My Commission Expires January 24, 1951

[NOTARIAL SEAL]

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 20TH day of FEBRUARY A. D. 1947 at 10:00 o'clock A. M. and recorded in Vol. 39 of RAILROAD MORTGAGES on pages 378 ET. SEQ.
Assistant Secretary of State

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AMERICAN CAR AND FOUNDRY COMPANY

and

PACIFIC FRUIT EXPRESS COMPANY

Agreement of Conditional Sale

Dated as of July 1, 1946

Covering Sale and Purchase of 500 Freight Refrigerator Cars

AMERICAN CAR AND FOUNDRY COMPANY

and

MELLON NATIONAL BANK AND TRUST COMPANY

Agreement and Assignment

Dated as of July 1, 1946

(Fee $14.00) 396

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AGREEMENT OF CONDITIONAL SALE

This Agreement, dated as of the 1st day of July, 1946, by and between AMERICAN CAR AND FOUNDRY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of New Jersey, hereinafter sometimes called "Car Company", party of the first part, and PACIFIC FRUIT EXPRESS COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Utah, hereinafter called "Vendee", party of the second part,

WITNESSETH:

That, in consideration of the mutual promises of the parties hereto, hereinafter set forth, the parties hereto agree as follows:

1. Car Company shall build Five Hundred (500) 80,000-pound capacity steel-sheathed, wood-lined freight refrigerator cars, as described below (hereinafter collectively sometimes called the "cars"), and shall sell and deliver said cars on completion thereof to Vendee f.o.b. rails of trunk line railroads, Milwaukee, Wisconsin, and Vendee shall accept delivery of and purchase said cars on completion thereof, subject to each and all the terms and conditions of this agreement.

DESCRIPTION OF EQUIPMENT.

Five Hundred (500) 80,000-pound capacity steel-sheathed, wood-lined freight refrigerator cars (high tensile steel design), Class R-40-23, with 80,000-pound capacity trucks, convertible ice tanks, air circulating fans and one-

wear wrought steel wheels, in accordance with P. F. E. Specification No. 74-G, dated February 15, 1946.

Lettering—in accordance with P. F. E. Specification No. 74-G and blueprints and specifications furnished.

Car Numbers—46703 to 47202, both inclusive.

Order No. NC-121.

The basic purchase price for each of said cars shall be $7,203.71, f.o.b. rails of trunk line railroads, Milwaukee, Wisconsin, which amount shall be the actual purchase price unless said amount be increased or decreased because of modifications in specifications mutually agreed upon by the parties hereto, or because of conditions as hereinafter in this Section 1 provided, in which event the increased or decreased amount shall be the actual purchase price. Interest shall be paid at the rate of one and sixty-five hundredths per cent (1.65%) per annum upon unpaid balances of the actual purchase price at the time and in the manner specified in Section 2 of this agreement.

It is understood that the basic price of $7,203.71 for each car is based upon specialties and material prices currently quoted as of the date hereof and is subject to change to compensate, (a) for any changes in specifications affecting the cost of the cars, (b) for any change in specialty and material prices from prices currently quoted, as above, or (c) for any change in freight rates on such materials or for delivery of the cars.

2. Vendee shall pay Car Company as the basic purchase price for said cars on the basis of $7,203.71 per freight refrigerator car, f.o.b. Milwaukee, Wisconsin (said price being hereinafter referred to as the "basic purchase price per car"), making an aggregate basic purchase price of $3,601,855.00 for all of said cars, based on the specifications referred to in Section 1 hereof. Any increase or decrease in the basic purchase price per car, because of modifications

in the specifications or other conditions hereinbefore in Section 1 hereof set forth, shall be respectively added to, or subtracted from, the basic purchase price per car and the effect of such addition or subtraction shall be added to or subtracted from the aggregate basic purchase price for all of said cars as herein stated and the resulting price per car and aggregate price for all of said cars shall be termed "final purchase price per car" and "final aggregate purchase price", respectively, which terms shall also respectively apply to the basic purchase price per car and the aggregate basic purchase price for all of said cars as hereinabove set forth if there be no change in such prices because of modifications in the specifications or other conditions hereinbefore in Section 1 hereof set forth. Said final aggregate purchase price shall be payable to the Car Company at such place within this country as may be designated by the Car Company, as follows:

(a) Upon delivery to the Vendee and its acceptance at the point of delivery above stated, an amount equal to 20% of the final purchase price per car, on the twenty-fifth day of the month following the month in which the car is delivered, provided that the sum to be so paid upon the delivery of the last cars to be delivered shall be adjusted so as to make the balance of the final aggregate purchase price unpaid in accordance with this subdivision, $3,180,000.00, or 80% of the final aggregate purchase price, whichever is less.

(b) The sum of $3,180,000.00, or 80% of the final aggregate purchase price, whichever is less, being the unpaid balance of the final aggregate purchase price of the said cars, in twenty-three (23) installments, the first installment to be payable July 1, 1947, in the amount of $125,000.00 and the balance in twenty-two (22) equal semi-annual installments on the first day of January and the first day of July in each year, beginning January 1, 1948, except that

the final semi-annual payment shall be in the amount required to pay the entire unpaid balance of the final aggregate purchase price then remaining after application of all previous payments or prepayments credited thereto. If on July 1, 1947, the aggregate unpaid balance of the final purchase price per car of all cars for which payments have been made under subdivision (a) hereof is less than $125,000.00, the difference between such lesser aggregate unpaid balance and $125,000.00 shall be deducted from the first installment payable July 1, 1947, and added to the semi-annual installment payable January 1, 1948.

(c) Interest at the rate of one and sixty-five hundredths per cent (1.65%) per annum, computed on the basis of a three hundred and sixty (360) day year, from the date of payment for each car under subdivision (a) hereof or from July 1, 1947, whichever is earlier, payable semi-annually on July 1 and January 1 on that portion of the final purchase price of each such car which is payable under subdivision (b) hereof from time to time unpaid, such payments of interest to be made simultaneously with the payments of principal provided for in subdivision (b) hereof. The interest payable hereunder from July 1, 1947, shall be payable whether or not all cars have been delivered.

Vendee shall have the right to prepay the then unpaid balance of installments provided for in subdivision (b) hereof at any time on thirty days' previous notice, without premium, either in whole, or in multiples of 5% of such unpaid balance, with interest accrued on the amount of any such prepayment to date of prepayment. Any such prepayment, other than in whole, shall be applied one-half to the earliest maturing installments and one-half to the latest maturing installments.

Vendee shall have the right, at any time during the month of June, 1947, to elect by notifying the Car Company in writing, to pay directly to the American Car and Foun-

dry Company (and not to the assignee of this agreement, if any) upon delivery to and acceptance by it, in lieu of the payments provided in subdivisions (a), (b) and (c) hereof, the full final purchase price per car of any cars which, at the time of such election, shall not have been delivered. In the event of such election by the Vendee, the sum of $3,180,000.00, or 80% of the final aggregate purchase price, whichever is less, as set forth in subdivision (b) hereof, and the amount of each of the twenty-two (22) semi-annual installments thereof payable beginning January 1, 1948, shall be reduced in proportion to the number of cars so paid for in full. Title to and property in cars paid for in full, pursuant to such election, shall pass to Vendee without further transfer or act upon the part of Car Company, but American Car and Foundry Company shall, if requested by Vendee so to do, execute and deliver to Vendee a bill of sale covering the cars so paid for in full.

3. Car Company shall give Vendee full opportunity to inspect said cars during the construction thereof at its shops where such cars are being constructed. On completion of each lot of said cars Vendee shall arrange for final inspection thereof and shall have its inspector execute in duplicate the usual form of Certificate of Inspection covering all cars found to be completed in accordance with the plans and specifications. Each such Certificate with respect to the cars covered thereby shall be final and conclusive evidence that such cars conform in workmanship, material, construction, and in all other respects to the requirements and provisions of this agreement. Vendee shall arrange also for acceptance of said cars by a duly authorized agent upon arrival thereof at the place of delivery at Milwaukee, Wisconsin.

4. Car Company shall deliver said cars at Milwaukee, Wisconsin, ready for service and free of all liens and en-

cumbrances and free of any claims of any nature by or in favor of any person or party, and subject only to the reservation of title thereto by Car Company in accordance with the provisions hereof. Delivery of cars shall be commenced on or before March 1, 1947, and shall be completed on or before May 31, 1947; subject to delays due to labor troubles, fires, floods, explosions, or other accidents, or to delays of carriers or of sub-contractors, or in receipt of material, or to any other cause or causes (whether or not of the same general character as those herein specifically enumerated) beyond Car Company's reasonable control.

5. American Car and Foundry Company shall indemnify and save harmless Vendee against all claims, suits, actions or other proceedings, and against all expenses incurred and judgments entered in or as a result of such actions, arising in any way out of alleged infringement of patents covering said cars, or any part or appliance thereof, excepting those patents covering devices and specialties designated by Vendee to be used by American Car and Foundry Company in the building of such cars and which are not manufactured by American Car and Foundry Company; and Vendee, in like manner, shall indemnify and save harmless American Car and Foundry Company against all claims, suits, actions or other proceedings, and against all expenses incurred and judgments entered in or as a result of such actions, arising in any way out of alleged infringement of patents by reason of the use of or incorporation in said cars of any said devices or specialties, so designated by Vendee to be used by American Car and Foundry Company in the construction of the cars, and which are not manufactured by American Car and Foundry Company.

Prompt notice in writing shall be given by each party to the other of any claim of patent infringement presented to

such party with respect to said cars, and the party responsible for such infringement as above provided, shall promptly undertake and assume the defense thereof.

6. All payments by Vendee hereunder shall be free of expenses to Car Company for collection or other charges, and no deductions shall be made therefrom of the amount of any Federal, State or other taxes, assessments or governmental charges hereafter levied or imposed upon said cars or the manufacture thereof, or upon the sale, shipment, delivery or use thereof, and Vendee hereby specifically agrees to pay to Car Company in addition to the above mentioned purchase price of the cars all sales taxes, or like taxes or charges which may be assessed, levied or imposed upon or with respect to the manufacture, sale or delivery to or use by Vendee of said cars, or any of them, and which Car Company may be legally required to pay to any state or municipality or to the United States of America or other government, but in no event shall Vendee be responsible for or required to pay any present existing gross income tax which may be assessed, levied or imposed upon or with respect to the manufacture, sale or delivery of the cars, any such present existing tax to be borne by American Car and Foundry Company. All payments provided for in this agreement shall be made by Vendee to Car Company in such currency of the United States of America as at the time of payment shall be legal tender for payment of public and private debts.

Vendee shall also pay promptly all taxes, assessments and governmental charges which from time to time may be imposed upon the cars, or the earnings arising therefrom, or the operation thereof, or upon Car Company by reason of its ownership thereof, by any government of any country, state or political subdivision thereof, in which the cars may be located, or which shall have jurisdiction over the

cars or any part of them, and Vendee agrees at all times to keep the cars free and clear of all tax liens and encumbrances, other than the lien of taxes not yet due or payable; provided, however, that Vendee shall not be required to pay any tax, assessment or other governmental charge, the validity of which Vendee shall contest in good faith and by appropriate legal proceedings until such contest shall have been decided, unless in the judgment of Car Company its rights and interests in the cars may be materially endangered by such delay.

Vendee shall comply in all respects with all laws of the United States of America and of the States, in or through which the said cars may be operated, covering the use, operation or maintenance of said cars, and with the lawful rules of the Interstate Commerce Commission with respect to the said cars, and of every other legislative, administrative or judicial body exercising any power or jurisdiction over said cars; and in the event that the said laws or rules require any alterations of any of said cars, or any additional equipment or appliances thereon, Vendee shall conform therewith at its own expense and shall maintain said cars in proper condition for operation under such laws and rules during the life of this agreement.

7. Except as provided in Section 2 hereof, Car Company shall retain full legal title to and property in all said cars until Vendee shall have made all the payments and shall have performed all of the covenants in this agreement provided to be made, kept or performed by Vendee, notwithstanding the delivery of any or all of the cars to and the possession and use thereof by Vendee as herein provided. Any and all replacements of parts of the cars or additional equipment or facilities installed thereon or therein shall constitute accessions to the cars the title to which shall be immediately vested in Car Company, and which

shall be subject to all the terms, reservations and conditions of this agreement. When Vendee shall have paid in full the entire purchase price for all of said cars, with interest thereon, and all other payments herein provided to be made by Vendee with respect thereto, title to and property in each and all said cars shall pass to Vendee without further transfer or act on the part of Car Company, but Car Company shall, if requested by Vendee so to do, execute and deliver to Vendee a bill of sale covering the cars when the full purchase price with interest and any and all other payments as aforesaid shall have been fully paid, together with such instrument of satisfaction or release as may be necessary or appropriate for filing or recording in all jurisdictions in which this instrument is filed, registered or recorded as provided for in Section 18 hereof.

8. The Vendee shall insure and keep insured all the cars against loss or damage, the risk of which is customarily insured against by railroad companies, in such manner and to such amount as is customarily insured by railroad companies.

9. Vendee at its own cost shall keep all said cars in good order and proper running repair and in case of damage thereto by fire, accident or otherwise will promptly repair the car or cars so damaged and restore them to good running order. In case any car shall be damaged beyond repair, lost, or destroyed, Vendee shall replace such car with other equipment of similar type and of substantially as good material and construction. Vendee shall cause any such new equipment to be marked as provided in Section 10 hereof, and to be numbered with the same road number as that of the car so replaced. Title to all such new equipment shall be taken in the name of Car Company and shall be immediately subject to all the terms and conditions of

this agreement in all respects as though part of the original cars delivered hereunder. Vendee, however, shall have the right, instead of replacing any such lost or destroyed car, to pay to Car Company the then unpaid balance of the purchase price of such car, and such amount, with suitable allowance of interest at rate of one and sixty-five hundredths per cent (1.65%) per annum, shall be credited by Car Company toward payment upon the installment or installments last maturing. Within twenty (20) days after receiving advice of damage to or destruction of any of said cars, Vendee shall give Car Company written notice thereof with full particulars of the extent of the loss or damage incurred. Any failure on the part of Vendee to repair or replace any such car with reasonable promptness or to pay for each car which may be lost or destroyed, shall entitle Car Company to declare a default hereunder and to take such action as is authorized to be taken by Car Company in case of a default by Vendee in making payment for said cars as herein provided.

Vendee shall permit inspection of said cars from time to time by agents of Car Company and upon request of Car Company shall furnish from time to time a statement showing the location (as nearly as may be) and condition of said cars and what, if any, substantial repairs have been made upon any of them since the last preceding report.

10. Before delivery of each of said cars to Vendee, American Car and Foundry Company shall fasten upon each side of each car a metal plate bearing the following words in letters not less than one inch in height: "American Car and Foundry Company, Owner", or, during any time that such metal plates are not reasonably obtainable, such words shall be otherwise plainly, distinctly, permanently and conspicuously marked upon each side of each car. Such plates or marks shall be so located as to be

readily visible and to indicate plainly Car Company's ownership of said cars. In the event of a transfer or assignment by American Car and Foundry Company of title to the cars or any of them before or contemporaneously with the delivery thereof, the ownership plates or marks referred to in this paragraph may bear the name of the assignee as owner in lieu of the name of the American Car and Foundry Company. In case, at any time before all moneys due or to become due by Vendee under this agreement shall have been paid in full, such plates or marks shall at any time be removed, defaced or destroyed, Vendee shall immediately, at its own cost, cause the same to be restored or replaced; and if by reason of change of law or otherwise, additional or other plates or marks shall be required to protect the interests of Car Company, Vendee shall provide and install and thereafter maintain the same on all such cars.

The cars may be lettered "Pacific Fruit Express Company", "Pacific Fruit Express", "P. F. E.", and may also be numbered for convenience in identification; but, until all moneys due or to become due by it under this agreement shall have been paid in full, Vendee shall not allow the name of any corporation or other party to be placed on any of the cars in such manner that such name or designation might be interpreted as a claim of ownership thereof by any person, association or corporation other than Car Company or its assignee. In case Vendee shall change the number assigned to or placed on any car, immediate notice of such change shall be given to Car Company so that it may correct its records accordingly.

In the event of a transfer or assignment, or successive transfers or assignments by Car Company or its assignees of title to said cars or any of them or of any or all of Car Company's rights hereunder in respect thereof, whenever requested by any such transferee or assignee, Vendee shall

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change the ownership plates on all such cars to indicate the title of such transferee or assignee to such cars and its succession to any or all rights of Car Company hereunder, but the expense of making such change in plates shall be borne by the party or parties requesting such change in connection with any assignment or transfer subsequent to the first assignment or transfer of any or all of the cars.

11. Vendee shall bear the risk of and shall not be released from its obligations hereunder in the event of any damage to or destruction or loss of any of the said cars from any cause whatsoever after delivery thereof to Vendee. Vendee further agrees to save, indemnify and keep harmless Car Company from and against all loss, damages, injuries, claims or demands whatsoever, regardless of the cause thereof, in connection with any accident or otherwise arising from or caused by operation or use of said cars while this agreement is in force; provided, however, that the provisions of this Section 11 shall in no way affect the obligations of American Car and Foundry Company expressed in Section 5 hereof.

12. All or any of the rights of Car Company under this agreement, including the right to receive the payments herein provided to be made by Vendee, may be assigned by Car Company and reassigned by any assignee at any time and from time to time, provided, however, that no such assignment shall subject any assignee to, or relieve American Car and Foundry Company or the successor or successors to its manufacturing properties or business from any of the obligations of American Car and Foundry Company as to the construction or delivery of the cars or as to any indemnity with respect thereto, or from any other duty, obligation or liability, except the duty to execute necessary and proper instruments of transfer as and when Vendee shall be entitled thereto pursuant to the provisions of Sec-

tion 7 hereof, and provided further, that no such assignment shall be deemed to enlarge the obligations of American Car and Foundry Company, or, the Vendee having failed to make any payment or perform any obligation upon its part to be made or performed, subject the American Car and Foundry Company to any liability resulting from any action taken by any assignee or any failure of any assignee to comply with any of the provisions hereof or of any applicable law in the enforcement of any rights of American Car and Foundry Company which may be assigned pursuant to this Section 12 hereof or relieve Vendee of its obligations to Car Company under Sections 5, 6 and 11 hereof.

Upon any such assignment the assignor shall give written notice to the Vendee, together with a counterpart or certified copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all of the Car Company's right, title and interest in and to the cars and each and every part thereof, subject only to such reservations as may be contained in such assignment. From and after the receipt by Vendee of the notification of any such assignment, all payments thereafter to be made by Vendee hereunder shall, to the extent so assigned, be made to the assignee or upon its written order.

In the event that this agreement is assigned by Car Company, or reassigned by any assignee, as herein provided, the rights of such assignee to the entire unpaid purchase price or such part thereof as may be assigned, and interest thereon, as well as any other rights as may be so assigned hereunder shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of American Car and Foundry Company or the successor or successors to its manufactur-

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ing properties or business in respect to the cars or the manufacture or delivery thereof, or in repect of any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to Vendee by American Car and Foundry Company or the successor or successors to its manufacturing properties or business. Any and all such obligations, howsoever arising, shall be and remain enforceable by Vendee against and only against American Car and Foundry Company and the successor or successors to its manufacturing properties or business, and shall not be enforceable against any party or parties in whom title to the cars or any of them, or the rights of Car Company hereunder, shall vest by reason of any sale, assignment or transfer, or successive sales, assignments or tranfers.

The term "Car Company" whenever used in this agreement means, before any assignment of all or any rights of Car Company hereunder as hereinbefore provided in this Section 12, American Car and Foundry Company, and after any such assignment, the assignee or assignees for the time being of all of the rights hereunder, or in the event of any assignment of any less than all of the rights hereunder, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also the assignor as regards any rights hereunder that are retained and excluded from such assignment; and the term "American Car and Foundry Company" whenever used in this agreement means, both before and after any such assignment, the party hereto of the first part, and any successor or successors for the time being to its manufacturing properties or business.

13. (a) In case Vendee shall make default in the payment of any installment of the purchase price of the cars or

interest thereon herein provided for and shall remain in default for more than thirty (30) days after such payment shall have become due and payable, or shall be in default under the provisions of Section 14 hereof; or shall fail or refuse to comply with any other of the terms and covenants in this agreement on its part to be kept and performed, or to make provisions satisfactory to Car Company for such compliance, and any such failure or refusal, other than a default under Section 14 hereof or a default in the payment of a semi-annual installment of the purchase price of the cars or interest thereon as provided hereunder, shall continue for more than thirty (30) days after notice in writing thereof to Vendee, then in any such case (herein sometimes called "events of default") and at any time thereafter during the continuance of such default Car Company without further notice or demand, except to the extent necessary in order to comply with any mandatory legal requirements then in force and applicable to such action by Car Company, may declare the entire unpaid balance of the purchase price of the cars immediately due and payable, without further demand, together with interest thereon then accrued and unpaid at the rate of one and sixty-five hundredths per cent (1.65%) per annum to such date of default; and thereafter interest shall be payable by Vendee upon any portion thereof overdue during such time as it shall remain overdue at rate of four per cent (4%) per annum; and Car Company shall thereupon be entitled to recover judgment for the entire amount so payable by Vendee with interest thereon at said rate, and to collect such judgment out of any property of Vendee wherever situated. Car Company may, at its election (and, if before sale or before completion of other enforcement of this agreement, all costs and expenses of Car Company incidental to any such default and to the enforcement by Car Company of the provisions hereof, and all sums which shall then have become due and

payable by Vendee hereunder, other than such part of said purchase price as shall have become due only because of a declaration of default under this section as aforesaid, shall have been paid by Vendee, and all other existing events of default shall have been remedied, or provision therefor satisfactory to Car Company shall have been made, then and in every such case the Car Company shall) waive any such event of default and its consequences and rescind and annul any such declaration or termination by notice to Vendee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such cured default had existed and no such declaration or termination had been made; but no such waiver, rescission or annulment shall limit or affect Car Company's right, upon any other default, to declare the unpaid balance of said purchase price due as aforesaid, or extend to or affect any other default, or impair any rights or remedies consequent thereon.

(b) If Vendee shall make default as hereinabove provided, then at any time after such notice of declaration of default and during the continuance of such default Car Company without further notice or demand, except to the extent necessary in order to comply with any such mandatory legal requirements, may take or cause to be taken by its agent or agents immediate possession of the cars, or any of them, and/or any replacements and improvements, and all present and future attachments and accessories thereof, without liability to return to Vendee any sums theretofore paid, and free from all claims whatsoever except as hereinafter in this Section 13 expressly provided, and may remove the same from the use and possession of Vendee and for such purpose may enter upon Vendee's premises where any of the cars may be located, and may use and employ in connection with such removal any available trackage and other facilities or means of

Vendee, without process of law; and Vendee shall assemble and deliver the cars, with all replacements, improvements, equipment, attachments and accessories thereof, at its own cost at such place or places as Car Company may reasonably designate, and in case of such retaking or delivery Car Company shall have the right to store the same upon the premises of Vendee without charge until Car Company shall desire to remove the same therefrom. The assembling and delivery of the cars as hereinbefore provided are of the essence of this agreement between the parties and upon application to any court of equity having jurisdiction in the premises, Car Company shall be entitled to a decree against Vendee requiring specific performance hereof.

(c) If Vendee shall make default as hereinbefore provided, then at any time thereafter during the continuance of such default, and after declaring the entire purchase price immediately due and payable as hereinbefore provided, Car Company with or without retaking possession thereof may sell the cars or any of them, and all replacements thereof, and all improvements, equipment, attachments and accessories placed thereon, free from any and all claims of Vendee, or of any other party claiming by, through or under it at law or in equity, at public or private sale and with or without advertisement as Car Company may determine, all subject to and in compliance with any mandatory legal requirements then in force and applicable to such sale. To the extent permitted by any such legal requirements, any sale or sales hereunder may be held or conducted at such location and at such time or times as Car Company may fix, in one lot and as an entirety or in separate lots, and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as Car Company may determine in compliance with any such mandatory legal requirements, provided that

written notice of such sale shall be given to Vendee at least ten (10) days prior thereto, by telegram or registered mail addressed to Vendee at its office in San Francisco, California, or such other notice, if any, as may be necessary to comply with any such mandatory legal requirements. If such sale shall be a private sale permitted by such legal requirements, it shall be subject to the right of Vendee to purchase or provide a purchaser, within ten (10) days after notice of the proposed sale price, at the same or better price than that offered by the intending purchaser. To the extent not prohibited by any legal requirements then in force and applicable to such sale, Car Company may itself bid for and become the purchaser of the cars, or any of them so offered for sale without accountability to Vendee (except to the extent of surplus money received as hereinafter provided in the last paragraph of this Section 13) and in payment of such purchase price Car Company shall be entitled to the extent aforesaid to have credited on account thereof all sums due to Car Company from Vendee hereunder.

(d) Each and every power or remedy hereby specifically given to Car Company shall be in addition to every other power or remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by Car Company. All such powers and remedies shall be cumulative and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of Car Company in the exercise of any such power or remedy, and no renewal or extension of any payments due hereunder, shall impair any such power or remedy, or shall be construed to be a waiver of any default, or an acquiescence therein.

(e) If Car Company shall exercise any of the powers or remedies conferred upon it hereunder, Vendee shall have the right after all sums due hereunder to Car Company shall have been received by it in full, including its proper costs and expenses incident to the collection thereof, to require title to any of the cars, if not previously sold or otherwise disposed of by Car Company pursuant to the provisions hereof, to be transferred and assigned by Car Company to Vendee free from any further liabilities or obligations to Car Company. If after applying all sums of money realized by Car Company under the remedies herein provided, there shall remain any amount due it under the provisions of this agreement, Vendee shall pay the amount of such deficit to Car Company. If after applying as aforesaid all sums realized by Car Company there shall remain a surplus in the possession of Car Company, such surplus shall be paid to Vendee.

14. Vendee shall not assign or transfer this agreement or any of its rights hereunder, or transfer or sublet the said cars or any of them without Car Company's written consent first had and obtained, and shall not cause or permit any of said cars to be pledged or held for any debt or obligation owing by Vendee or to be in any manner encumbered, and shall not suffer the said cars or any of them to pass out of Vendee's control except that Vendee, so long as it shall not be in default under this agreement, shall be entitled to the possession of the cars and to use or permit the use of the same upon lines of railroads constituting the Union Pacific lines and Southern Pacific lines and upon other railroads in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this agreement, and may receive compensation for such use.

The filing by Vendee or by creditors of Vendee of any petition for reorganization (or debt adjustment affecting

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the obligations of Vendee under this agreement) under Chapter X or Chapter XI of the Bankruptcy Act or under any amendment or revision thereof or under any other provision of the Bankruptcy Act as now or hereafter existing, or any voluntary assignment or transfer of Vendee's interest in and under this agreement, or any involuntary transfer of such interest by bankruptcy, or by the appointment of a receiver or trustee, or by execution, or by any judicial or administrative decree or process, or otherwise (unless such petition shall be dismissed or such assignment, transfer, decree or process shall within thirty (30) days from the filing or other effective date thereof, be nullified, stayed or otherwise rendered ineffective, or unless any such receiver(s) or trustee(s) shall within thirty (30) days from the date of his or their appointment adopt this agreement pursuant to due authority of the court of his or their appointment) shall be deemed a breach of this agreement and a default hereunder; whereupon Car Company may elect to declare the entire unpaid balance of the purchase price immediately due and payable as hereinbefore provided and may thereupon forthwith retake possession of the cars or any of them and exercise and enforce any and all other remedies as provided by Section 13 hereof.

15. Wherever provision is made in this agreement for any notice or demand to or upon Vendee, or if at any time, Car Company shall desire to give notice to or make any demand upon Vendee, the same may be given or made by depositing a written statement thereof, enclosed in a postpaid envelope in any United States Post Office, directed to Vendee by registered mail at its office, No. 85 Second Street, San Francisco 5, California, or at such other address as Vendee may specify in writing, and an affidavit by any person so depositing such notice in respect of such mailing shall be deemed to be and shall be conclusive evidence of

the giving and receipt of such notice and of the making of such demand.

16. Any provision of this agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this agreement into an instrument other than an agreement of conditional sale, shall as to such state be ineffective, without modifying as to such state the remaining provisions of this agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by Vendee to the full extent permitted by law.

17. Any extension of time granted by Car Company to Vendee for the payment of any sum due under this agreement shall not be deemed a waiver of the title of Car Company reserved hereunder nor of any of its rights and remedies hereunder or otherwise existing.

18. Vendee at its own expense shall cause this agreement and the first assignment thereof, to be filed, registered and recorded wherever required for the proper protection of the title of American Car and Foundry Company, or its first assignee, to the cars and any replacement or replacements thereof, and of its rights under this agreement; and Vendee shall from time to time do and perform any other act, and will execute, acknowledge, deliver, file, register and record any and all further instruments, required by law or reasonably requested by American Car and Foundry Company, or its first assignee, for the purpose of such protection of its title and rights, or for the purpose of carrying out the intention of this agreement.

19. Vendee shall pay also all costs, charges and expenses, except counsel fees of American Car and Foundry

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Company or of any assignee, incident to the preparation, execution, acknowledgment, filing, registering and recording of this agreement and of any instrument supplemental hereto or amendatory hereof above referred to, excepting only assignments or instruments of transfer subsequent to the first assignment or transfer between American Car and Foundry Company and its assignee or assignees.

20. This agreement may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

21. This agreement of conditional sale, together with the specifications hereinabove referred to, constitutes the entire agreement between Vendee and Car Company with respect to the construction, delivery and sale of the cars above referred to. No variation or modification of this agreement, and no waiver of any of its provisions or conditions, shall be valid unless in writing and signed by duly authorized officers of Vendee and Car Company.

IN WITNESS WHEREOF, Car Company and Vendee, respectively, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names and their respective corporate seals to be hereunto affixed, duly attested as of the day and year first above written.

AMERICAN CAR AND FOUNDRY COMPANY,

By R. A. Williams
Vice President.

[CORPORATE SEAL]

Attest: H. C. Wick
Secretary.

Signed, sealed and delivered in the presence of:

C. A. Burr
B. W. Dodwell

PACIFIC FRUIT EXPRESS COMPANY,

By E. B. Conrad
President.

[CORPORATE SEAL]

Attest: A. C. Sherwood
Secretary.

Signed, sealed and delivered in the presence of:

J. T. McNair
Fred G. Reilly

STATE OF NEW YORK, } ss.:
COUNTY OF NEW YORK, }

BE IT REMEMBERED, and I do hereby certify that on this 3rd day of ~~January~~ March, A. D., 1947, before me, WILSON P. DIZARD, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared R. A. WILLIAMS, Vice President, and H. C. WICK, Secretary, of American Car and Foundry Company, a corporation incorporated and existing under and by the laws of the State of New Jersey and one of the corporations described in and which, as party of the first part, executed the within and foregoing instrument, dated as of July 1, 1946, who are known to me to be Vice President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Secretary, respectively, and the said H. C. WICK, as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Secretary, respectively, for the uses, purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said R. A. WILLIAMS and H. C. WICK, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said R. A. WILLIAMS, resides in the City of New York, and State of New York, and is Vice President and an officer, and that he, said H. C. WICK, resides in Westfield, New Jersey, and is Secretary and an officer, of said American Car and Foundry Company, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said R. A. WILLIAMS and H. C. WICK acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the State of New York.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire March 30, 1948.

I am not a stockholder, director or officer of or in American Car and Foundry Company.

Appearers:

R. A. Williams
H. C. Wick

Wilson P. Dizard
Notary Public in the State of New York
Residing in Richmond County
Certificate Filed in
N. Y. Co. Clk's No. 30, Reg. No. 150-D-8
Commission Expires March 30, 1948

[NOTARIAL SEAL]

Attesting Witnesses:

C. A. Burr
B. W. Dodwell

STATE OF NEW YORK, } ss.:
COUNTY OF NEW YORK, }

BE IT REMEMBERED, and I do hereby certify that on this 24th day of January, A. D., 1947, before me, FRANK E. TILLEY, the undersigned and subscriber, a Notary Public duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared E. B. CONRAD, President, and A. C. SHERWOOD, Secretary of Pacific Fruit Express Company, a corporation incorporated and existing under and by the laws of the State of Utah and one of the corporations described in and which, as party of the second part, executed the within and foregoing instrument, dated as of July 1, 1946, who are known to me to be the President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such President and Secretary, respectively, and they severally signed and delivered said instrument before me and in the presence of the two subscribing legal witnesses as President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as President and Secretary, respectively, and the said A. C. SHERWOOD, as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses, they severally upon oath acknowledged themselves to be President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument they, as such President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such President and Secretary, respectively, for the uses, purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said E. B. CONRAD and A. C. SHERWOOD, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said E. B. CONRAD, resides in New Rochelle, N. Y., and is President and an officer, and that he, said A. C. SHERWOOD, resides in Paterson, N. J., and is Secretary and an officer, of said Pacific Fruit Express Company, the corporation described in and which executed the above instrument, as above designated; that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said E. B. CONRAD and A. C. SHERWOOD acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the State of New York.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire March 30, 1947.

I am not a stockholder, director or officer of or in Pacific Fruit Express Company.

Appearers:

E. B. Conrad
A. C. Sherwood

Frank E. Tilley
Frank E. Tilley
Notary Public, State of New York
Residing in Kings County
Kings County Clerk's No. 210
N. Y. County Clerk's No. 79
Commission Expires March 30, 1947

[NOTARIAL SEAL]

Attesting Witnesses:

J. T. McNair
Fred G. Reilly

AGREEMENT AND ASSIGNMENT

This Agreement and Assignment, dated as of the 1st day of July, 1946, between AMERICAN CAR AND FOUNDRY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of New Jersey (hereinafter called "Car Company") and MELLON NATIONAL BANK AND TRUST COMPANY, a corporation organized and existing under and by virtue of the laws of the United States of America (hereinafter designated as "Assignee"), WITNESSETH THAT:

WHEREAS, an agreement of conditional sale (hereinafter referred to as the "agreement of conditional sale") was made between Car Company and Pacific Fruit Express Company as of July 1, 1946, for the construction and sale by Car Company of Five Hundred (500) freight refrigerator cars (hereinafter collectively sometimes called the "cars") and for the delivery thereof by Car Company f.o.b. rails of trunk line railroads, Milwaukee, Wisconsin, all in accordance with and subject to the terms and conditions set forth therein, said agreement of conditional sale being prefixed hereto and made a part hereof; and

WHEREAS, Assignee has offered to purchase from Car Company and Car Company has agreed to assign and transfer to Assignee all of its right, title and interest in, to and under said agreement of conditional sale, including the right to collect and receive all payments to become due and payable thereunder from said Pacific Fruit Express Company;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS THAT:

1. Car Company, in consideration of the amounts hereinafter agreed to be paid by Assignee, does hereby sell, assign, transfer and set over unto Assignee, its successors and assigns, all its right, title and interest in, to and under the agreement of conditional sale made by Car Company

and Pacific Fruit Express Company dated as of July 1, 1946, and all right, title and interest of the Car Company in and to the cars in respect of which the Assignee shall pay to Car Company the purchase price thereof pursuant to Section 4 hereof, together with and including all payments to become due from the Pacific Fruit Express Company under said agreement, provided, however, that this assignment is without any recourse against Car Company for or on account of the failure of the Pacific Fruit Express Company to make any payments provided for in or otherwise to comply with any of the provisions of the said agreement of conditional sale, and provided further that this assignment shall not subject Assignee to or relieve Car Company, or the successor or successors to its manufacturing property or business, from any of the obligations of Car Company to Pacific Fruit Express Company to construct and deliver the cars as in said agreement of conditional sale provided, or to comply with the provisions of Sections 5 and 12 of said agreement of conditional sale, or relieve Pacific Fruit Express Company, so far as the construction, sale and delivery of the cars are concerned under Sections 5, 6 and 11 of said agreement of conditional sale.

2. The rights of Assignee to the entire unpaid purchase price of said Five Hundred (500) freight refrigerator cars, and interest thereon, as well as any other rights as may be so assigned hereunder, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of Car Company, or the successor or successors to its manufacturing properties and business, in respect of the manufacture or delivery of the cars or under Sections 5 and 12 of said agreement of conditional sale, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time

owing to Pacific Fruit Express Company by Car Company, or the successor to its manufacturing business. Any and all such obligations shall be and remain enforceable by the Pacific Fruit Express Company against and only against Car Company and the successor or successors to its manufacturing properties or business, and shall not be enforceable against Assignee or any party or parties in whom title to the cars or any of them or the rights of Car Company under said agreement of conditional sale shall vest by reason of this assignment or transfer or of successive sales, assignments or transfers.

3. Car Company covenants and agrees that it will construct all said cars in full and complete accordance with the specifications and plans, as set forth in said agreement of conditional sale, and will deliver said cars, on completion thereof, to said Pacific Fruit Express Company free of all liens and encumbrances except said agreement of conditional sale, and in accordance with the provisions of said agreement of conditional sale and that, notwithstanding this assignment, it will perform and fully comply with the provisions of Sections 4, 5 and 12 of said agreement of conditional sale. The Car Company further covenants and agrees that it has good and lawful right to sell the cars as aforesaid and that it will warrant and defend the same against the lawful demands of all persons whomsoever based on claims originating prior to the delivery of the cars by the Car Company to Pacific Fruit Express Company; all subject, however, to the provisions of the agreement of conditional sale and the rights of Pacific Fruit Express Company thereunder.

4. Car Company, upon completion and delivery of each lot of said cars, shall execute and deliver to Assignee, for the purpose of effectuating this assignment, one or more bills of sale transferring to Assignee title to all cars in each such lot concurrently with shipment and delivery thereof to

Pacific Fruit Express Company, and shall forward to Assignee, with such executed bills of sale, documents evidencing the delivery of the cars included in each such lot and the acceptance thereof by said Pacific Fruit Express Company, all in accordance with the said agreement of conditional sale.

Upon receipt of each such bill of sale and upon payment by Pacific Fruit Express Company to the Assignee of that portion of the purchase price of the cars covered by such bill of sale which under subdivision (a) of Section 2 of the agreement of conditional sale is payable by Pacific Fruit Express Company upon delivery thereof, Assignee shall pay to the Car Company the sum of $7,203.71 for each and every car so delivered, or (as soon as such final price shall be computed and agreed upon) such greater or lesser sum as shall represent the actual purchase price payable with respect to each such car in accordance with Section 1 of said agreement of conditional sale, the total amount to be paid by Assignee for all of said cars being the aggregate purchase price of $3,601,855.00 (unless reduced by payments by Pacific Fruit Express Company, at its election, directly to the Car Company, as permitted by Section 2 of the said agreement of conditional sale) increased or decreased as a result of the changes in the purchase price per car provided for in Section 1 of said agreement of conditional sale.

5. Car Company hereby represents and warrants to Assignee and its successors and assigns:

(a) That said agreement of conditional sale was lawfully executed for a valid consideration and that it is a valid existing contract and, according to its terms, binding upon the parties thereto.

(b) That the cars therein provided for are now under construction according to schedule and will be completed and delivered at the time and in the manner in said agreement of conditional sale provided.

(c) That no payments have been made by Pacific Fruit Express Company to Car Company under said agreement of conditional sale and that, upon completion and delivery of said cars, each and all of the installment payments will become due and payable in the amounts and at the times as set forth in said agreement of conditional sale.

6. Without hereby limiting the generality of the foregoing assignment, Car Company hereby authorizes and empowers Assignee to sue for, collect, receive and enforce, in the name of the Assignee, at the expense and liability and for the sole benefit of Assignee, with full power to Assignee to substitute any one or more persons with like power, the payment of all sums and to enforce all action to be taken by Pacific Fruit Express Company under said agreement of conditional sale in respect of said cars.

7. Car Company covenants and agrees with Assignee that in any suit or action brought by Assignee for the recovery of any sum or sums provided in said agreement of conditional sale to be paid by Pacific Fruit Express Company, Car Company will indemnify and keep harmless Assignee from any and all expenses, losses and damages suffered by reason of any defense, setoff, counterclaim or recoupment of Pacific Fruit Express Company arising out of the breach by Car Company of Car Company's obligations to construct and deliver the said cars in accordance with the provisions of said agreement of conditional sale or of Car Company's obligations under Sections 5 and/or 12 of said agreement of conditional sale. Car Company agrees to indemnify, save and keep harmless Assignee from and against any and all royalties, damages, claims, suits, judgments and costs that may arise because of the claim that the use of any design, device, articles or specialty in the construction of the cars and thereon at the time of their delivery (except any design, device, articles or specialty

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specified or required by the Pacific Fruit Express Company and not manufactured by Car Company) infringes any patent.

8. It is mutually agreed that the Assignee may assign its rights under the agreement of conditional sale in respect of all or any designated number of said cars, including the right to receive any payments due or to become due to it from the Pacific Fruit Express Company thereunder in respect to such cars. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all of the obligations of the Assignee hereunder.

9. The Car Company covenants and agrees that it will, from time to time and at all times, at the request of the Assignee, or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises, to give effect to the provisions herein set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

10. The Car Company covenants and agrees that, at the time of delivery of each car to Pacific Fruit Express Company, Car Company will fasten upon each side of each car a metal plate bearing the following words in letters not less than one inch in height: "Mellon National Bank and Trust Company, Owner, by assignment from American Car and Foundry Company, Vendor." or, if such metal plates are not reasonably obtainable, such words shall be otherwise plainly, distinctly, permanently and conspicuously marked upon each side of each car.

11. This agreement and assignment may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

IN WITNESS WHEREOF, Car Company and Assignee, respectively, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names and their respective corporate seals to be hereunto affixed, duly attested, as of the day and year first above written.

AMERICAN CAR AND FOUNDRY COMPANY,

By _____
Vice President.

[CORPORATE SEAL]

Attest: _____
Secretary.

Signed, sealed and delivered in the presence of:

_____

_____

MELLON NATIONAL BANK AND TRUST COMPANY,

By _____
Vice President.

[CORPORATE SEAL]

Attest: _____
Secretary.

Signed, sealed and delivered in the presence of:

_____

_____

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State of New York, } ss.:
County of New York,

Be it remembered, and I do hereby certify that on this 3rd day of ~~January~~ March, A. D., 1947, before me, Wilson P. Dizard, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared R. A. Williams, Vice President, and H. C. Wick, Secretary, of American Car and Foundry Company, a corporation incorporated and existing under and by the laws of the State of New Jersey and one of the corporations described in and which executed the within and foregoing instrument, dated as of July 1, 1946, who are known to me to be Vice President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Secretary, respectively, and the said H. C. Wick as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Secretary, respectively, for the uses and purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said R. A. Williams and H. C. Wick, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said R. A. Williams, resides in the City of New York, and State of New York, and is Vice President and an officer, and that he, said H. C. Wick, resides in Westfield, New Jersey, and is Secretary and an officer, of said American Car and Foundry Company, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said R. A. Williams and H. C. Wick acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the State of New York.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire March 30, 1948.

I am not a stockholder, director or officer of or in American Car and Foundry Company.

Appearers:
R A Williams
H C Wick

Attesting Witnesses:
[signature]
F. W. Sodwell

Wilson P. Dizard
Wilson P. Dizard
Notary Public in the State of New York
Residing in Richmond County
Certificate Filed in
N. Y. Co. Clk's No. 30, Reg. No. 150-D-8
Commission Expires March 30, 1948.

[Notarial Seal]

Commonwealth of Pennsylvania, } ss.:
County of Allegheny,

Be it remembered, and I do hereby certify that on this 28th day of January, A. D., 1947, before me, Robert Kane, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared Frederick Gwinner, Vice President, and E. D. Hayes, Secretary, of Mellon National Bank and Trust Company, a corporation incorporated and existing under and by the laws of the United States of America and one of the corporations described in and which executed the within and foregoing instrument, dated as of July 1, 1946, who are known to me to be Vice President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Secretary, respectively, and the said E. D. Hayes, as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Secretary, respectively, for the uses, purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said Frederick Gwinner and E. D. Hayes, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said Frederick Gwinner, resides in Pittsburgh, Pa., and is Vice President and an officer, and that he, said E. D. Hayes, resides in Mt. Lebanon Township, Allegheny County, Pa., and is Secretary and an officer, of said Mellon National Bank and Trust Company, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said Frederick Gwinner and E. D. Hayes acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the Commonwealth of Pennsylvania.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire January 24th 1951

I am not a stockholder, director or officer ~~of~~ or in Mellon National Bank and Trust Company.

Appearers:
Frederick Gwinner
E D Hayes

Attesting Witnesses:
W Dearsond
C. J. Robinson

Robert Kane
Robert Kane
Notary Public
My Commission Expires January 24th 1951

[Notarial Seal]

State of Wisconsin } ss.
Department of State

Received this 7th day of March A. D. 1947 at 10:00 o'clock A.M. and recorded in Vol. 39 of Railroad Mortgages on pages 396 et seq.

[signature]
Assistant Secretary of State

(Fee $14.00)

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AGREEMENT OF CONDITIONAL SALE

This Agreement, dated as of the 1st day of October, 1946, by and between General American Transportation Corporation, a corporation organized and existing under and by virtue of the laws of the State of New York, hereinafter sometimes called "Car Company", party of the first part, and Pacific Fruit Express Company, a corporation organized and existing under and by virtue of the laws of the State of Utah, hereinafter called "Vendee", party of the second part,

Witnesseth:

That, in consideration of the mutual promises of the parties hereto, hereinafter set forth, the parties hereto agree as follows:

1. Car Company shall build Five Hundred (500) 80,000-pound capacity steel-sheathed, wood-lined freight refrigerator cars, as described below (hereinafter collectively sometimes called the "cars"), and shall sell and deliver said cars on completion thereof to Vendee f.o.b. rails of trunk line railroads, Milwaukee, Wisconsin, and Vendee shall accept delivery of and purchase said cars on completion thereof, subject to each and all the terms and conditions of this agreement.

Description of Equipment.

Five Hundred (500) 80,000-pound capacity steel-sheathed, wood-lined freight refrigerator cars (high tensile steel design), Class R-40-23, with 80,000-pound capacity trucks, convertible ice tanks, air circulating fans and one-

wear wrought steel wheels, in accordance with P. F. E. Specification No. 74-G, dated February 15, 1946.

Lettering—in accordance with P. F. E. Specification No. 74-G and blueprints and specifications furnished.

Car Numbers—6501 to 7000, both inclusive.

Order No. NC-122.

The basic purchase price for each of said cars shall be $7,291.72, f.o.b. rails of trunk line railroads, Milwaukee, Wisconsin, which amount shall be the actual purchase price unless said amount be increased or decreased because of modifications in specifications mutually agreed upon by the parties hereto, or because of conditions as hereinafter in this Section 1 provided, in which event the increased or decreased amount shall be the actual purchase price. Interest shall be paid at the rate of one and seventy-three hundredths per cent (1.73%) per annum upon unpaid balances of the actual purchase price at the time and in the manner specified in Section 2 of this agreement.

It is understood that the basic price of $7,291.72 for each car is based upon specialties and material prices currently quoted as of February 14, 1947, and is subject to change to compensate, (a) for any changes in specifications affecting the cost of the cars, (b) for any change in specialty and material prices from prices currently quoted, as above, or (c) for any change in freight rates on such materials or for delivery of the cars.

It is further understood that if, as a result of negotiations with labor organizations representing the employees at the plant of Car Company where the cars are built, the wage rates for those employees are increased or decreased by one cent or more per hour from the present wage rates, the cost of the cars will be increased or decreased by ten

dollars per car for each one-cent change from the presently established wage rates; and it is agreed that the maximum increase per car by reason of change in wage rates shall be one hundred fifty dollars.

It is also understood that in the event any changes in wage rates negotiated shall not increase or decrease the wage rates of all employees in the bargaining unit by a uniform amount per hour, the average amount per hour of increase or decrease shall be determined by agreement between General American Transportation Corporation and Vendee, and that if any increase or decrease in wage rates occurs after the work of fabricating and construction is in progress, the increase or decrease in wage rates shall be applied only to that portion of work affected that may be determined by agreement between General American Transportation Corporation and Vendee.

2. Vendee shall pay Car Company as the basic purchase price for said cars on the basis of $7,291.72 per freight refrigerator car, f.o.b. Milwaukee, Wisconsin (said price being hereinafter referred to as the "basic purchase price per car"), making an aggregate basic purchase price of $3,645,860.00 for all of said cars, based on the specifications referred to in Section 1 hereof. Any increase or decrease in the basic purchase price per car, because of modifications in the specifications or other conditions hereinbefore in Section 1 hereof set forth, shall be respectively added to, or subtracted from, the basic purchase price per car and the effect of such addition or subtraction shall be added to or subtracted from the aggregate basic purchase price for all of said cars as herein stated and the resulting price per car and aggregate price for all of said cars shall be termed "final purchase price per car" and "final aggregate purchase price", respectively, which terms shall also respectively apply to the basic purchase price per car and the

aggregate basic purchase price for all of said cars as hereinabove set forth if there be no change in such prices because of modifications in the specifications or other conditions hereinbefore in Section 1 hereof set forth. Said final aggregate purchase price shall be payable to the Car Company at such place within this country as may be designated by the Car Company, as follows:

(a) Upon delivery to the Vendee and its acceptance at the point of delivery above stated, an amount equal to 20% of the final purchase price per car, on the twenty-fifth day of the month following the month in which the car is delivered, provided that the sum to be so paid upon the delivery of the last cars to be delivered shall be adjusted so as to make the balance of the final aggregate purchase price unpaid in accordance with this subdivision $3,000,000.00, or 80% of the final aggregate purchase price, whichever is less.

(b) The sum of $3,000,000.00, or 80% of the final aggregate purchase price, whichever is less, being the unpaid balance of the final aggregate purchase price of the said cars, in twenty (20) equal semi-annual installments on the first day of April and the first day of October in each year, beginning April 1, 1948, except that the final semi-annual payment shall be in the amount required to pay the entire unpaid balance of the final aggregate purchase price then remaining after application of all previous payments or prepayments credited thereto.

(c) Interest at the rate of one and seventy-three hundredths per cent (1.73%) per annum, computed on the basis of a three hundred and sixty (360) day year, from the date of payment for each car under subdivision (a) hereof or from October 1, 1947, whichever is earlier, payable semi-annually on April 1 and October 1 on that portion of the final purchase price of each such car which is payable under subdivision (b) hereof from time to time unpaid, such payments of interest to be made simultaneously with

the payments of principal provided for in subdivision (b) hereof. The interest payable hereunder from October 1, 1947, shall be payable whether or not all cars have been delivered.

Vendee shall have the right to prepay the then unpaid balance of installments provided for in subdivision (b) hereof at any time on thirty days' previous notice, without premium, either in whole, or in multiples of 5% of such unpaid balance, with interest accrued on the amount of any such prepayment to date of prepayment. Any such prepayment, other than in whole, shall be applied one-half to the earliest maturing installments and one-half to the latest maturing installments.

Vendee shall have the right, at any time during the month of September, 1947, to elect by notifying the Car Company in writing, to pay directly to the General American Transportation Corporation (and not to the assignee of this agreement, if any) upon delivery to and acceptance by it, in lieu of the payments provided in subdivisions (a), (b) and (c) hereof, the full final purchase price per car of any cars which, at the time of such election, shall not have been delivered. In the event of such election by the Vendee, the sum of $3,000,000.00, or 80% of the final aggregate purchase price, whichever is less, as set forth in subdivision (b) hereof, and the amount of each of the twenty (20) semi-annual installments thereof payable beginning April 1, 1948, shall be reduced in proportion to the number of cars so paid for in full. Title to and property in cars paid for in full, pursuant to such election, shall pass to Vendee without further transfer or act upon the part of Car Company, but General American Transportation Corporation shall, if requested by Vendee so to do, execute and deliver to Vendee a bill of sale covering the cars so paid for in full.

3. Car Company shall give Vendee full opportunity to inspect said cars during the construction thereof at its shops where such cars are being constructed. On completion of each lot of said cars Vendee shall arrange for final inspection thereof and shall have its inspector execute in duplicate the usual form of Certificate of Inspection covering all cars found to be completed in accordance with the plans and specifications. Each such Certificate with respect to the cars covered thereby shall be final and conclusive evidence that such cars conform in workmanship, material, construction, and in all other respects to the requirements and provisions of this agreement. Vendee shall arrange also for acceptance of said cars by a duly authorized agent upon arrival thereof at the place of delivery at Milwaukee, Wisconsin.

4. Car Company shall deliver said cars at Milwaukee, Wisconsin, ready for service and free of all liens and encumbrances and free of any claims of any nature by or in favor of any person or party, and subject only to the reservation of title thereto by Car Company in accordance with the provisions hereof. Delivery of cars shall be commenced on or before June 1, 1947, and shall be completed on or before August 31, 1947; subject to delays due to labor troubles, fires, floods, explosions, or other accidents, or to delays of carriers or of sub-contractors, or in receipt of material, or to any other cause or causes (whether or not of the same general character as those herein specifically enumerated) beyond Car Company's reasonable control.

5. General American Transportation Corporation shall indemnify and save harmless Vendee against all claims, suits, actions or other proceedings, and against all expenses incurred and judgments entered in or as a result of such actions, arising in any way out of alleged infringement of patents covering said cars, or any part or appliance thereof,

excepting those patents covering designs, devices, articles and specialties designated, specified or required by Vendee to be used by General American Transportation Corporation in the building of such cars and which are not manufactured by General American Transportation Corporation; and Vendee, in like manner, shall indemnify and save harmless General American Transportation Corporation against all claims, suits, actions or other proceedings, and against all expenses incurred and judgments entered in or as a result of such actions, arising in any way out of alleged infringement of patents by reason of the use of or incorporation in said cars of any said designs, devices, articles and specialties, so designated, specified or required by Vendee to be used by General American Transportation Corporation in the construction of the cars, and which are not manufactured by General American Transportation Corporation.

Prompt notice in writing shall be given by each party to the other of any claim of patent infringement presented to such party with respect to said cars, and the party responsible for such infringement as above provided, shall promptly undertake and assume the defense thereof.

6. All payments by Vendee hereunder shall be free of expenses to Car Company for collection or other charges, and no deductions shall be made therefrom of the amount of any Federal, State or other taxes, assessments or governmental charges hereafter levied or imposed upon said cars or the manufacture thereof, or upon the sale, shipment, delivery or use thereof, and Vendee hereby specifically agrees to pay to Car Company in addition to the above mentioned purchase price of the cars all sales taxes, or like taxes or charges which may be assessed, levied or imposed upon or with respect to the manufacture, sale or delivery to or use by Vendee of said cars, or any of them, and which Car Company may be legally required to pay to any state or municipality or to the United States of America or other government, but in no event shall Vendee be responsible for or required to pay any present existing gross income tax which may be assessed, levied or imposed upon or with respect to the manufacture, sale or delivery of the cars, any such present existing tax to be borne by General American Transportation Corporation. All payments provided for in this agreement shall be made by Vendee to Car Company in such currency of the United States of America as at the time of payment shall be legal tender for payment of public and private debts.

Vendee shall also pay promptly all taxes, assessments and governmental charges which from time to time may be imposed upon the cars, or the earnings arising therefrom, or the operation thereof, or upon Car Company by reason of its ownership thereof, by any government of any country, state or political subdivision thereof, in which the cars may be located, or which shall have jurisdiction over the cars or any part of them, and Vendee agrees at all times to keep the cars free and clear of all tax liens and encumbrances, other than the lien of taxes not yet due or payable; provided, however, that Vendee shall not be required to pay any tax, assessment or other governmental charge, the validity of which Vendee shall contest in good faith and by appropriate legal proceedings until such contest shall have been decided, unless in the judgment of Car Company its rights and interests in the cars may be materially endangered by such delay.

Vendee shall comply in all respects with all laws of the United States of America and of the States, in or through which the said cars may be operated, covering the use, operation or maintenance of said cars, and with the lawful rules of the Interstate Commerce Commission with respect to the said cars, and of every other legislative, administrative or judicial body exercising any power or jurisdiction over said cars; and in the event that the said laws or rules require any alterations of any of said cars, or any additional equipment or appliances thereon, Vendee shall conform therewith at its own expense and shall maintain said cars in proper condition for operation under such laws and rules during the life of this agreement.

7. Except as provided in Section 2 hereof, Car Company shall retain full legal title to and property in all said cars until Vendee shall have made all the payments and shall have performed all of the covenants in this agreement provided to be made, kept or performed by Vendee, notwithstanding the delivery of any or all of the cars to and the possession and use thereof by Vendee as herein provided. Any and all replacements of parts of the cars or additional equipment or facilities installed thereon or therein shall constitute accessions to the cars the title to which shall be immediately vested in Car Company, and which shall be subject to all the terms, reservations and conditions of this agreement. When Vendee shall have paid in full the entire purchase price for all of said cars, with interest thereon, and all other payments herein provided to be made by Vendee with respect thereto, title to and property in each and all said cars shall pass to Vendee without further transfer or act on the part of Car Company, but Car Company shall, if requested by Vendee so to do, execute and deliver to Vendee a bill of sale covering the cars when the full purchase price with interest and any and all other payments as aforesaid shall have been fully paid, together with such instrument of satisfaction or release as may be necessary or appropriate for filing or recording in all jurisdictions in which this instrument is filed, registered or recorded as provided for in Section 18 hereof.

8. The Vendee shall insure and keep insured all the cars against loss or damage, the risk of which is customarily insured against by railroad companies, in such manner and to such amount as is customarily insured by railroad companies.

9. Vendee at its own cost shall keep all said cars in good order and proper running repair and in case of damage thereto by fire, accident or otherwise will promptly repair the car or cars so damaged and restore them to good running order. In case any car shall be damaged beyond repair, lost, or destroyed, Vendee shall replace such car with other equipment of similar type and of substantially as good material and construction. Vendee shall cause any such new equipment to be marked as provided in Section 10 hereof, and to be numbered with the same road number as that of the car so replaced. Title to all such new equipment shall be taken in the name of Car Company and shall be immediately subject to all the terms and conditions of this agreement in all respects as though part of the original cars delivered hereunder. Vendee, however, shall have the right, instead of replacing any such lost or destroyed car, to pay to Car Company the then unpaid balance of the purchase price of such car, and such amount shall be credited by Car Company toward payment upon the installment or installments last maturing. Within twenty (20) days after receiving advice of damage to or destruction of any of said cars, Vendee shall give Car Company written notice thereof with full particulars of the extent of the loss or damage incurred. Any failure on the part of Vendee to repair or replace any such car with reasonable promptness or to pay for each car which may be lost or destroyed, shall entitle Car Company to declare a default hereunder and to take such action as is authorized to be taken by Car Company in case of a default by Vendee in making payment for said cars as herein provided.

Vendee shall permit inspection of said cars from time to time by agents of Car Company and upon request of Car Company shall furnish from time to time a statement showing the location (as nearly as may be) and condition of said cars and what, if any, substantial repairs have been made upon any of them since the last preceding report.

10. Before delivery of each of said cars to Vendee, General American Transportation Corporation shall fasten upon each side of each car a metal plate bearing the following words in letters not less than one inch in height: "General American Transportation Corporation, Owner", or, during any time that such metal plates are not reasonably obtainable, such words shall be otherwise plainly, distinctly, permanently and conspicuously marked upon each side of each car. Such plates or marks shall be so located as to be readily visible and to indicate plainly Car Company's ownership of said cars. In the event of a transfer or assignment by General American Transportation Corporation of title to the cars or any of them before or contemporaneously with the delivery thereof, the ownership plates or marks referred to in this paragraph may bear the name of the assignee as owner in lieu of the name of the General American Transportation Corporation. In case, at any time before all moneys due or to become due by Vendee under this agreement shall have been paid in full, such plates or marks shall at any time be removed, defaced or destroyed, Vendee shall immediately, at its own cost, cause the same to be restored or replaced; and if by reason of change of law or otherwise, additional or other plates or marks shall be required to protect the interests of Car Company, Vendee shall provide and install and thereafter maintain the same on all such cars.

The cars may be lettered "Pacific Fruit Express Company", "Pacific Fruit Express", "P. F. E.", and may also

be numbered for convenience in identification; but, until all moneys due or to become due by it under this agreement shall have been paid in full, Vendee shall not allow the name of any corporation or other party to be placed on any of the cars in such manner that such name or designation might be interpreted as a claim of ownership thereof by any person, association or corporation other than Car Company or its assignee. In case Vendee shall change the number assigned to or placed on any car, immediate notice of such change shall be given to Car Company so that it may correct its records accordingly.

In the event of a transfer or assignment, or successive transfers or assignments by Car Company or its assignees of title to said cars or any of them or of any or all of Car Company's rights hereunder in respect thereof, whenever requested by any such transferee or assignee, Vendee shall change the ownership plates on all such cars to indicate the title of such transferee or assignee to such cars and its succession to any or all rights of Car Company hereunder, but the expense of making such change in plates shall be borne by the party or parties requesting such change in connection with any assignment or transfer subsequent to the first assignment or transfer of any or all of the cars.

11. Vendee shall bear the risk of and shall not be released from its obligations hereunder in the event of any damage to or destruction or loss of any of the said cars from any cause whatsoever after delivery thereof to Vendee. Vendee further agrees to save, indemnify and keep harmless Car Company from and against all loss, damages, injuries, claims or demands whatsoever, regardless of the cause thereof, in connection with any accident or otherwise arising from or caused by operation or use of said cars while this agreement is in force; provided, however, that

the provisions of this Section 11 shall in no way affect the obligations of General American Transportation Corporation expressed in Section 5 hereof.

12. All or any of the rights of Car Company under this agreement, including the right to receive the payments herein provided to be made by Vendee, may be assigned by Car Company and reassigned by any assignee at any time and from time to time, provided, however, that no such assignment shall subject any assignee to, or relieve General American Transportation Corporation or the successor or successors to its manufacturing properties or business from any of the obligations of General American Transportation Corporation as to the construction or delivery of the cars or as to any indemnity with respect thereto, or from any other duty, obligation or liability, except the duty to execute necessary and proper instruments of transfer as and when Vendee shall be entitled thereto pursuant to the provisions of Section 7 hereof, and provided further, that no such assignment shall be deemed to enlarge the obligations of General American Transportation Corporation, or, the Vendee having failed to make any payment or perform any obligation upon its part to be made or performed, subject the General American Transportation Corporation to any liability resulting from any action taken by any assignee or any failure of any assignee to comply with any of the provisions hereof or of any applicable law in the enforcement of any rights of General American Transportation Corporation which may be assigned pursuant to this Section 12 hereof or relieve Vendee of its obligations to Car Company under Sections 5 and 6 hereof.

Upon any such assignment the assignor shall give written notice to the Vendee, together with a counterpart or certified copy of such assignment, stating the identity and

post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all of the Car Company's right, title and interest in and to the cars and each and every part thereof, subject only to such reservations as may be contained in such assignment. From and after the receipt by Vendee of the notification of any such assignment, all payments thereafter to be made by Vendee hereunder shall, to the extent so assigned, be made to the assignee or upon its written order.

In the event that this agreement is assigned by Car Company, or reassigned by any assignee, as herein provided, the rights of such assignee to the entire unpaid purchase price or such part thereof as may be assigned, and interest thereon, as well as any other rights as may be so assigned hereunder shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of General American Transportation Corporation or the successor or successors to its manufacturing properties or business in respect to the cars or the manufacture or delivery thereof, or in respect of any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to Vendee by General American Transportation Corporation or the successor or successors to its manufacturing properties or business. Any and all such obligations, howsoever arising, shall be and remain enforceable by Vendee against and only against General American Transportation Corporation and the successor or successors to its manufacturing properties or business, and shall not be enforceable against any party or parties in whom title to the cars or any of them, or the rights of Car Company hereunder, shall vest by reason of any sale, assignment or transfer, or successive sales, assignments or transfers.

The term "Car Company" whenever used in this agreement means, before any assignment of all or any rights of Car Company hereunder as hereinbefore provided in this Section 12, General American Transportation Corporation, and after any such assignment, the assignee or assignees for the time being of all of the rights hereunder, or in the event of any assignment of any less than all of the rights hereunder, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also the assignor as regards any rights hereunder that are retained and excluded from such assignment; and the term "General American Transportation Corporation" whenever used in this agreement means, both before and after any such assignment, the party hereto of the first part, and any successor or successors for the time being to its manufacturing properties or business.

13. (a) In case Vendee shall make default in the payment of any installment of the purchase price of the cars or interest thereon herein provided for and shall remain in default for more than thirty (30) days after such payment shall have become due and payable, or shall be in default under the provisions of Section 14 hereof; or shall fail or refuse to comply with any other of the terms and covenants in this agreement on its part to be kept and performed, or to make provisions satisfactory to Car Company for such compliance, and any such failure or refusal, other than a default under Section 14 hereof or a default in the payment of a semi-annual installment of the purchase price of the cars or interest thereon as provided hereunder, shall continue for more than thirty (30) days after notice in writing thereof to Vendee, then in any such case (herein sometimes called "events of default") and at any time thereafter during the continuance of such default Car Company without further notice or demand, except to the ex-

tent necessary in order to comply with any mandatory legal requirements then in force and applicable to such action by Car Company, may declare the entire unpaid balance of the purchase price of the cars immediately due and payable, without further demand, together with interest thereon then accrued and unpaid at the rate of one and seventy-three hundredths per cent (1.73%) per annum to such date of default; and thereafter interest shall be payable by Vendee upon any portion thereof overdue during such time as it shall remain overdue at rate of four per cent (4%) per annum; and Car Company shall thereupon be entitled to recover judgment for the entire amount so payable by Vendee with interest thereon at said rate, and to collect such judgment out of any property of Vendee wherever situated. Car Company may, at its election (and, if before sale or before completion of other enforcement of this agreement, all costs and expenses of Car Company incidental to any such default and to the enforcement by Car Company of the provisions hereof, and all sums which shall then have become due and payable by Vendee hereunder, other than such part of said purchase price as shall have become due only because of a declaration of default under this section as aforesaid, shall have been paid by Vendee, and all other existing events of default shall have been remedied, or provision therefor satisfactory to Car Company shall have been made, then and in every such case the Car Company shall) waive any such event of default and its consequences and rescind and annul any such declaration or termination by notice to Vendee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such cured default had existed and no such declaration or termination had been made; but no such waiver, rescission or annulment shall limit or affect Car Company's right, upon any other default, to declare the unpaid balance of said purchase price due as

aforesaid, or extend to or affect any other default, or impair any rights or remedies consequent thereon.

(b) If Vendee shall make default as hereinabove provided, then at any time after such notice of declaration of default and during the continuance of such default Car Company without further notice or demand, except to the extent necessary in order to comply with any such mandatory legal requirements, may take or cause to be taken by its agent or agents immediate possession of the cars, or any of them, and/or any replacements and improvements, and all present and future attachments and accessories thereof, without liability to return to Vendee any sums theretofore paid, and free from all claims whatsoever except as hereinafter in this Section 13 expressly provided, and may remove the same from the use and possession of Vendee and for such purpose may enter upon Vendee's premises where any of the cars may be located, and may use and employ in connection with such removal any available trackage and other facilities or means of Vendee, without process of law; and Vendee shall assemble and deliver the cars, with all replacements, improvements, equipment, attachments and accessories thereof, at its own cost at such place or places as Car Company may reasonably designate, and in case of such retaking or delivery Car Company shall have the right to store the same upon the premises of Vendee without charge until Car Company shall desire to remove the same therefrom. The assembling and delivery of the cars as hereinbefore provided are of the essence of this agreement between the parties and upon application to any court of equity having jurisdiction in the premises, Car Company shall be entitled to a decree against Vendee requiring specific performance hereof.

(c) If Vendee shall make default as hereinbefore provided, then at any time thereafter during the continuance of

such default, and after declaring the entire purchase price immediately due and payable as hereinbefore provided, Car Company with or without retaking possession thereof may sell the cars or any of them, and all replacements thereof, and all improvements, equipment, attachments and accessories placed thereon, free from any and all claims of Vendee, or of any other party claiming by, through or under it at law or in equity, at public or private sale and with or without advertisement as Car Company may determine, all subject to and in compliance with any mandatory legal requirements then in force and applicable to such sale. To the extent permitted by any such legal requirements, any sale or sales hereunder may be held or conducted at such location and at such time or times as Car Company may fix, in one lot and as an entirety or in separate lots, and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as Car Company may determine in compliance with any such mandatory legal requirements, provided that written notice of such sale shall be given to Vendee at least ten (10) days prior thereto, by telegram or registered mail addressed to Vendee at its office in San Francisco, California, or such other notice, if any, as may be necessary to comply with any such mandatory legal requirements. If such sale shall be a private sale permitted by such legal requirements, it shall be subject to the right of Vendee to purchase or provide a purchaser, within ten (10) days after notice of the proposed sale price, at the same or better price than that offered by the intending purchaser. To the extent not prohibited by any legal requirements then in force and applicable to such sale, Car Company may itself bid for and become the purchaser of the cars, or any of them so offered for sale without accountability to Vendee (except to the extent of surplus money received as hereinafter provided in the last paragraph of this Section 13) and in payment of such purchase price Car Company shall be entitled to the extent aforesaid to have credited on account thereof all sums due to Car Company from Vendee hereunder.

(d) Each and every power or remedy hereby specifically given to Car Company shall be in addition to every other power or remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by Car Company. All such powers and remedies shall be cumulative and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of Car Company in the exercise of any such power or remedy, and no renewal or extension of any payments due hereunder, shall impair any such power or remedy, or shall be construed to be a waiver of any default, or an acquiescence therein.

(e) If Car Company shall exercise any of the powers or remedies conferred upon it hereunder, Vendee shall have the right after all sums due hereunder to Car Company shall have been received by it in full, including its proper costs and expenses incident to the collection thereof, to require title to any of the cars, if not previously sold or otherwise disposed of by Car Company pursuant to the provisions hereof, to be transferred and assigned by Car Company to Vendee free from any further liabilities or obligations to Car Company. If after applying all sums of money realized by Car Company under the remedies herein provided, there shall remain any amount due it under the provisions of this agreement, Vendee shall pay the amount of such deficit to Car Company. If after applying as aforesaid all sums realized by Car Company there shall remain a surplus in the possession of Car Company, such surplus shall be paid to Vendee.

14. Vendee shall not assign or transfer this agreement or any of its rights hereunder, or transfer or sublet the said cars or any of them without Car Company's written consent first had and obtained, and shall not cause or permit any of said cars to be pledged or held for any debt or obligation owing by Vendee or to be in any manner encumbered, and shall not suffer the said cars or any of them to pass out of Vendee's control except that Vendee, so long as it shall not be in default under this agreement, shall be entitled to the possession of the cars and to use or permit the use of the same upon lines of railroads constituting the Union Pacific lines or Southern Pacific lines and upon other railroads in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this agreement, and may receive compensation for such use.

The filing by Vendee or by creditors of Vendee of any petition for reorganization (or debt adjustment affecting the obligations of Vendee under this agreement) under Chapter X or Chapter XI of the Bankruptcy Act or under any amendment or revision thereof or under any other provision of the Bankruptcy Act as now or hereafter existing, or any voluntary assignment or transfer of Vendee's interest in and under this agreement, or any involuntary transfer of such interest by bankruptcy, or by the appointment of a receiver or trustee, or by execution, or by any judicial or administrative decree or process, or otherwise (unless such petition shall be dismissed or such assignment, transfer, decree or process shall within thirty (30) days from the filing or other effective date thereof, be nullified, stayed or otherwise rendered ineffective, or unless any such receiver(s) or trustee(s) shall within thirty (30) days from the date of his or their appointment adopt this agreement pursuant to due authority of the court of his or their appointment) shall be deemed a breach of this agreement and a default hereunder; whereupon Car Company may elect to declare the entire unpaid balance of the purchase price immediately due and payable as hereinbefore provided and may thereupon forthwith retake possession of the cars or any of them and exercise and enforce any and all other remedies as provided by Section 13 hereof.

15. Wherever provision is made in this agreement for any notice or demand to or upon Vendee, or if at any time, Car Company shall desire to give notice to or make any demand upon Vendee, the same may be given or made by depositing a written statement thereof, enclosed in a postpaid envelope in any United States Post Office, directed to Vendee by registered mail at its office, No. 85 Second Street, San Francisco 5, California, or at such other address as Vendee may specify in writing, and an affidavit by any person so depositing such notice in respect of such mailing shall be deemed to be and shall be conclusive evidence of the giving and receipt of such notice and of the making of such demand.

16. Any provision of this agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this agreement into an instrument other than an agreement of conditional sale, shall as to such state be ineffective, without modifying as to such state the remaining provisions of this agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by Vendee to the full extent permitted by law.

17. Any extension of time granted by Car Company to Vendee for the payment of any sum due under this agreement shall not be deemed a waiver of the title of Car Company reserved hereunder nor of any of its rights and remedies hereunder or otherwise existing.

18. Vendee at its own expense shall cause this agreement, and the first assignment thereof, to be filed, registered and recorded wherever required for the proper protection of the title of General American Transportation Corporation, or its first assignee, to the cars and any replacement or replacements thereof, and of its rights under this agreement; and Vendee shall from time to time do and perform any other act, and will execute, acknowledge, deliver, file, register and record any and all further instruments, required by law or reasonably requested by General American Transportation Corporation, or its first assignee, for the purpose of such protection of its title and rights, or for the purpose of carrying out the intention of this agreement.

19. Vendee shall pay also all costs, charges and expenses, except counsel fees of General American Transportation Corporation or of any assignee, incident to the preparation, execution, acknowledgment, filing, registering and recording of this agreement and of any instrument supplemental hereto or amendatory hereof above referred to, excepting only assignments or instruments of transfer subsequent to the first assignment or transfer between General American Transportation Corporation and its assignee or assignees.

20. This agreement may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

21. This agreement of conditional sale, together with the specifications hereinabove referred to, constitutes the entire agreement between Vendee and Car Company with

respect to the construction, delivery and sale of the cars above referred to. No variation or modification of this agreement, and no waiver of any of its provisions or conditions, shall be valid unless in writing and signed by duly authorized officers of Vendee and Car Company.

IN WITNESS WHEREOF, Car Company and Vendee, respectively, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names and their respective corporate seals to be hereunto affixed, duly attested as of the day and year first above written.

GENERAL AMERICAN TRANSPORTATION CORPORATION,

By W. S. Hefferan
Vice President.

[CORPORATE SEAL]

Attest: Maurice Feldman
Secretary.

Signed, sealed and delivered in the presence of:
A. G. Williams
H. A. Lindquist

PACIFIC FRUIT EXPRESS COMPANY,

By E. B. Conrad
President.

[CORPORATE SEAL]

Attest: A. C. Sherwood
Secretary.

Signed, sealed and delivered in the presence of:
G. T. McNair
Fred G. Reuss

STATE OF ILLINOIS, } ss.:
COUNTY OF COOK, }

BE IT REMEMBERED, and I do hereby certify that on this 3rd day of April, A. D., 1947, before me, R. M. FLOOD, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared W. S. HEFFERAN, JR., Vice President, and MAURICE J. FELDMAN, Secretary, of General American Transportation Corporation, a corporation incorporated and existing under and by the laws of the State of New York and one of the corporations described in and which, as party of the first part, executed the within and foregoing instrument, dated as of October 1, 1946, who are known to me to be Vice President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Secretary, respectively, and the said MAURICE J. FELDMAN, as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Secretary, respectively, for the uses, purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said W. S. HEFFERAN, JR., and MAURICE J. FELDMAN, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said W. S. HEFFERAN, JR., resides in Evanston, Illinois, and is Vice President and an officer, and that he, said MAURICE J. FELDMAN, resides in Chicago, Illinois, and is Secretary and an officer, of said General American Transportation Corporation, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said W. S. HEFFERAN, JR., and MAURICE J. FELDMAN acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the State of Illinois.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire June 2, 1949.

I am not a stockholder, director or officer of or in General American Transportation Corporation.

Appearers:
W. S. Hefferan, Jr.
Maurice Feldman

Attesting Witnesses:
A. G. Williams
H. A. Lindquist

R. M. Flood, Notary Public
My Commission Expires June 2, 1949.

[NOTARIAL SEAL]

STATE OF NEW YORK, } ss.:
COUNTY OF NEW YORK, }

BE IT REMEMBERED, and I do hereby certify that on this 21 day of March, A. D., 1947, before me, FRANK E. TILLEY, the undersigned and subscriber, a Notary Public duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared E. B. CONRAD, President, and A. C. SHERWOOD, Secretary of Pacific Fruit Express Company, a corporation incorporated and existing under and by the laws of the State of Utah and one of the corporations described in and which, as party of the second part, executed the within and foregoing instrument, dated as of October 1, 1946, who are known to me to be the President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such President and Secretary, respectively, and they severally signed and delivered said instrument before me and in the presence of the two subscribing legal witnesses as President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as President and Secretary, respectively, and the said A. C. SHERWOOD, as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses, they severally upon oath acknowledged themselves to be President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument they, as such President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such President and Secretary, respectively, for the uses, purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said E. B. CONRAD and A. C. SHERWOOD, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said E. B. CONRAD, resides in New Rochelle, N. Y., and is President and an officer, and that he, said A. C. SHERWOOD, resides in Paterson, N. J., and is Secretary and an officer, of said Pacific Fruit Express Company, the corporation described in and which executed the above instrument, as above designated; that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said E. B. CONRAD and A. C. SHERWOOD acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the State of New York.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire March 30, 1947.

I am not a stockholder, director or officer of or in Pacific Fruit Express Company.

Appearers:
E. B. Conrad
A. C. Sherwood

Attesting Witnesses:
G. T. McNair
Fred G. Reuss

Frank E. Tilley
Notary Public, State of New York
Residing in Kings County
Kings County Clerk's No. 210
N. Y. County Clerk's No. 79
Commission Expires March 30, 1947

[NOTARIAL SEAL]

AGREEMENT AND ASSIGNMENT

This Agreement and Assignment, dated as of the 1st day of October, 1946, between GENERAL AMERICAN TRANSPORTATION CORPORATION, a corporation organized and existing under and by virtue of the laws of the State of New York (hereinafter called "Car Company") and MELLON NATIONAL BANK AND TRUST COMPANY, a corporation organized and existing under and by virtue of the laws of the United States of America (hereinafter designated as "Assignee"), WITNESSETH THAT:

WHEREAS, an agreement of conditional sale (hereinafter referred to as the "agreement of conditional sale") was made between Car Company and Pacific Fruit Express Company as of October 1, 1946, for the construction and sale by Car Company of Five Hundred (500) freight refrigerator cars (hereinafter collectively sometimes called the "cars") and for the delivery thereof by Car Company f. o. b. rails of trunk line railroads, Milwaukee, Wisconsin, all in accordance with and subject to the terms and conditions set forth therein, said agreement of conditional sale being prefixed hereto and made a part hereof; and

WHEREAS, Assignee has offered to purchase from Car Company and Car Company has agreed to assign and transfer to Assignee all of its right, title and interest in, to and under said agreement of conditional sale, including the right to collect and receive all payments to become due and payable thereunder from said Pacific Fruit Express Company;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS THAT:

1. Car Company, in consideration of the amounts hereinafter agreed to be paid by Assignee, does hereby sell, assign, transfer and set over unto Assignee, its successors

and assigns, all its right, title and interest in, to and under the agreement of conditional sale made by Car Company and Pacific Fruit Express Company dated as of October 1, 1946, and all right, title and interest of the Car Company in and to the cars in respect of which the Assignee shall pay to Car Company the purchase price thereof pursuant to Section 4 hereof, together with and including all payments to become due from the Pacific Fruit Express Company under said agreement, provided, however, that this assignment is without any recourse against Car Company for or on account of the failure of the Pacific Fruit Express Company to make any payments provided for in or otherwise to comply with any of the provisions of the said agreement of conditional sale, and provided further that this assignment shall not subject Assignee to or relieve Car Company, or the successor or successors to its manufacturing property or business, from any of the obligations of Car Company to Pacific Fruit Express Company to construct and deliver the cars as in said agreement of conditional sale provided, or to comply with the provisions of Sections 5 and 12 of said agreement of conditional sale, or relieve Pacific Fruit Express Company, so far as the construction, sale and delivery of the cars are concerned under Sections 5 and 6 of said agreement of conditional sale.

2. The rights of Assignee to the entire unpaid purchase price of said Five Hundred (500) freight refrigerator cars, and interest thereon, as well as any other rights as may be so assigned hereunder, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of Car Company, or the successor or successors to its manufacturing properties and business, in respect of the manufacture or delivery of the cars or under Sections 5 and 12 of said agreement of conditional sale, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any

other indebtedness or liability at any time owing to Pacific Fruit Express Company by Car Company, or the successor to its manufacturing business. Any and all such obligations shall be and remain enforceable by the Pacific Fruit Express Company against and only against Car Company and the successor or successors to its manufacturing properties or business, and shall not be enforceable against Assignee or any party or parties in whom title to the cars or any of them or the rights of Car Company under said agreement of conditional sale shall vest by reason of this assignment or transfer or of successive sales, assignments or transfers.

3. Car Company covenants and agrees that it will construct all said cars in full and complete accordance with the specifications and plans, as set forth in said agreement of conditional sale, and will deliver said cars, on completion thereof, to said Pacific Fruit Express Company free of all liens and encumbrances except said agreement of conditional sale, and in accordance with the provisions of said agreement of conditional sale and that, notwithstanding this assignment, it will perform and fully comply with the provisions of Sections 4, 5 and 12 of said agreement of conditional sale. The Car Company further covenants and agrees that it has good and lawful right to sell the cars as aforesaid and that it will warrant and defend the same against the lawful demands of all persons whomsoever based on claims originating prior to the delivery of the cars by the Car Company to Pacific Fruit Express Company; all subject, however, to the provisions of the agreement of conditional sale and the rights of Pacific Fruit Express Company thereunder.

4. Car Company, upon completion and delivery of each lot of said cars, shall execute and deliver to Assignee, for the purpose of effectuating this assignment, one or more bills of sale transferring to Assignee title to all cars in each such lot concurrently with shipment and delivery thereof to

Pacific Fruit Express Company, and shall forward to Assignee, with such executed bills of sale, documents evidencing the delivery of the cars included in each such lot and the acceptance thereof by said Pacific Fruit Express Company, all in accordance with the said agreement of conditional sale.

Upon receipt of each such bill of sale and upon payment by Pacific Fruit Express Company to the Assignee of that portion of the purchase price of the cars covered by such bill of sale which under subdivision (a) of Section 2 of the agreement of conditional sale is payable by Pacific Fruit Express Company upon delivery thereof, Assignee shall pay to the Car Company the sum of $7,291.72 for each and every car so delivered, or (as soon as such final price shall be computed and agreed upon) such greater or lesser sum as shall represent the total purchase price payable with respect to each such car in accordance with Section 1 of said agreement of conditional sale, the total amount to be paid by Assignee for all of said cars being the aggregate purchase price of $3,645,860.00 (unless reduced by payments by Pacific Fruit Express Company, at its election, directly to the Car Company, as permitted by Section 2 of the said agreement of conditional sale) subject to the changes in the purchase price per car provided for in Section 1 of said agreement of conditional sale.

5. Car Company hereby represents and warrants to Assignee and its successors and assigns:

(a) That said agreement of conditional sale was lawfully executed for a valid consideration and that it is a valid existing contract and, according to its terms, binding upon the parties thereto.

(b) That the cars therein provided for are now under construction according to schedule and will be completed and delivered at the time and in the manner in said agreement of conditional sale provided.

(c) That no payments have been made by Pacific Fruit Express Company to Car Company under said agreement of conditional sale and that, upon completion and delivery of said cars, each and all of the installment payments will become due and payable in the amounts and at the times as set forth in said agreement of conditional sale.

6. Without hereby limiting the generality of the foregoing assignment, Car Company hereby authorizes and empowers Assignee to sue for, collect, receive and enforce, in the name of the Assignee, at the expense and liability and for the sole benefit of Assignee, with full power to Assignee to substitute any one or more persons with like power, the payment of all sums and to enforce all action to be taken by Pacific Fruit Express Company under said agreement of conditional sale in respect of said cars.

7. Car Company covenants and agrees with Assignee that in any suit or action brought by Assignee for the recovery of any sum or sums provided in said agreement of conditional sale to be paid by Pacific Fruit Express Company, Car Company will indemnify and keep harmless Assignee from any and all expenses, losses and damages suffered by reason of any defense, setoff, counterclaim or recoupment of Pacific Fruit Express Company arising out of the breach by Car Company of Car Company's obligations to construct and deliver the said cars in accordance with the provisions of said agreement of conditional sale or of Car Company's obligations under Sections 5 and/or 12 of said agreement of conditional sale. Car Company agrees to indemnify, save and keep harmless Assignee from and against any and all royalties, damages, claims, suits, judgments and costs that may arise because of the claim that the use of any design, device, articles or specialty in the construction of the cars and thereon at the time of their delivery (except any design, device, articles or specialty designated, specified or required by the Pacific Fruit Express

Company and not manufactured by Car Company) infringes any patent.

8. It is mutually agreed that the Assignee may assign its rights under the agreement of conditional sale in respect of all or any designated number of said cars, including the right to receive any payments due or to become due to it from the Pacific Fruit Express Company thereunder in respect to such cars. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all of the obligations of the Assignee hereunder.

9. The Car Company covenants and agrees that it will, from time to time and at all times, at the request of the Assignee, or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises, to give effect to the provisions herein set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

10. The Car Company covenants and agrees that, at the time of delivery of each car to Pacific Fruit Express Company, Car Company will fasten upon each side of each car a metal plate bearing the following words in letters not less than one inch in height: "Mellon National Bank and Trust Company, Owner, by assignment from General American Transportation Corporation, Vendor." or, if such metal plates are not reasonably obtainable, such words shall be otherwise plainly, distinctly, permanently and conspicuously marked upon each side of each car.

11. This agreement and assignment may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such coun-

terparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

IN WITNESS WHEREOF, Car Company and Assignee, respectively, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names and their respective corporate seals to be hereunto affixed, duly attested, as of the day and year first above written.

GENERAL AMERICAN TRANSPORTATION CORPORATION,

By _____
Vice President.

[CORPORATE SEAL]

Attest:
Maurice Feldman
Secretary.

Signed, sealed and delivered in the presence of:
A. G. Williams
H. A. Lindquist

MELLON NATIONAL BANK AND TRUST COMPANY,

By _____
Vice President.

[CORPORATE SEAL]

Attest:
E. D. Hayes
Secretary.

Signed, sealed and delivered in the presence of:
J. F. Watson
E. Robinson

STATE OF ILLINOIS, }
COUNTY OF COOK, } ss.:

BE IT REMEMBERED, and I do hereby certify that on this 3rd day of April, A. D., 1947, before me, R. M. FLOOD, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared W. S. HEFFERAN, JR., Vice President, and MAURICE J. FELDMAN, Secretary, of General American Transportation Corporation, a corporation incorporated and existing under and by the laws of the State of New York and one of the corporations described in and which executed the within and foregoing instrument, dated as of October 1, 1946, who are known to me to be Vice President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Secretary, respectively, and the said MAURICE J. FELDMAN, as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Secretary, respectively, for the uses and purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said W. S. HEFFERAN, JR., and MAURICE J. FELDMAN, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said W. S. HEFFERAN, JR., resides in Evanston, Illinois, and is Vice President and an officer, and that he, said MAURICE J. FELDMAN, resides in Chicago, Illinois, and is Secretary and an officer, of said General American Transportation Corporation, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said W. S. HEFFERAN, JR., and MAURICE J. FELDMAN acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the State of Illinois.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire June 2, 1949.

I am not a stockholder, director or officer of or in General American Transportation Corporation.

Appearers:
W. S. Hefferan Jr.
Maurice J. Feldman

Attesting Witnesses:
A. G. Williams
H. A. Lindquist

R. M. Flood
R. M. Flood, Notary Public
My Commission Expires June 2, 1949.
[NOTARIAL SEAL]

COMMONWEALTH OF PENNSYLVANIA, }
COUNTY OF ALLEGHENY, } ss.:

BE IT REMEMBERED, and I do hereby certify that on this 31st day of March, A. D., 1947, before me, ROBERT KANE, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared J. S. RAYMOND, Vice President, and E. D. HAYES, Secretary, of Mellon National Bank and Trust Company, a corporation incorporated and existing under and by the laws of the United States of America and one of the corporations described in and which executed the within and foregoing instrument, dated as of October 1, 1946, who are known to me to be Vice President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Secretary, respectively, and the said E. D. HAYES, as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Secretary, respectively, for the uses, purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said J. S. RAYMOND and E. D. HAYES, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said J. S. RAYMOND, resides in Pittsburgh, Pa., and is Vice President and an officer, and that he, said E. D. HAYES, resides in Mt. Lebanon Township, Allegheny County, Pa., and is Secretary and an officer, of said Mellon National Bank and Trust Company, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said J. S. RAYMOND and E. D. HAYES acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the Commonwealth of Pennsylvania.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire January 24, 1951.

I am not a stockholder, director or officer of or in Mellon National Bank and Trust Company.

Appearers:
J. S. Raymond
E. D. Hayes

Attesting Witnesses:
J. P. Whearn
C. J. Robinson

Robert Kane
Robert Kane, Notary Public
My Commission Expires January 24, 1951
[NOTARIAL SEAL]

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 12TH day of
APRIL A. D. 19 47 at 10:00
o'clock A.M. and recorded in Vol.
39 of RAILROAD MORTGAGES
on pages 414-436 incl.
Assistant Secretary of State

(Fee $14.00)

-1-

AGREEMENT OF CONDITIONAL SALE

This Agreement, dated as of the 1st day of October, 1946, by and between AMERICAN CAR AND FOUNDRY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of New Jersey, hereinafter sometimes called "Car Company", party of the first part, and PACIFIC FRUIT EXPRESS COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Utah, hereinafter called "Vendee", party of the second part,

WITNESSETH:

That, in consideration of the mutual promises of the parties hereto, hereinafter set forth, the parties hereto agree as follows:

1. Car Company shall build Five Hundred (500) 80,000-pound capacity steel-sheathed, wood-lined freight refrigerator cars, as described below (hereinafter collectively sometimes called the "cars"), and shall sell and deliver said cars on completion thereof to Vendee f.o.b. rails of trunk line railroads, Milwaukee, Wisconsin, and Vendee shall accept delivery of and purchase said cars on completion thereof, subject to each and all the terms and conditions of this agreement.

DESCRIPTION OF EQUIPMENT.

Five Hundred (500) 80,000-pound capacity steel-sheathed, wood-lined freight refrigerator cars (high tensile steel design), Class R-40-23, with 80,000-pound capacity trucks, convertible ice tanks, air circulating fans and one-wear wrought steel wheels, in accordance with P. F. E. Specification No. 74-G, dated February 15, 1946.

Lettering—in accordance with P. F. E. Specification No. 74-G and blueprints and specifications furnished.

Car Numbers—6001 to 6500, both inclusive.

Order No. NC-121.

The basic purchase price for each of said cars shall be $7,281.83, f. o. b. rails of trunk line railroads, Milwaukee, Wisconsin, which amount shall be the actual purchase price unless said amount be increased or decreased because of modifications in specifications mutually agreed upon by the parties hereto, or because of conditions as hereinafter in this Section 1 provided, in which event the increased or decreased amount shall be the actual purchase price. Interest shall be paid at the rate of one and seventy-three hundredths per cent (1.73%) per annum upon unpaid balances of the actual purchase price at the time and in the manner specified in Section 2 of this agreement.

It is understood that the basic price of $7,281.83 for each car is based upon specialties and material prices quoted on February 14, 1947, and is subject to change to compensate, (a) for any changes in specifications affecting the cost of the cars, (b) for any change in specialty and material prices from prices quoted, as above, or (c) for any change in freight rates on such materials or for delivery of the cars.

It is further understood that if, as a result of negotiations with labor organizations representing the employees at the plant of Car Company where the cars are built, the wage rates for those employees are increased or decreased by one cent or more per hour from the wage rates in effect on August 2, 1946, the cost of the cars will be increased or decreased by ten dollars per car for each one-cent change from the established wage rates in effect on August 2, 1946; and it is agreed that the maximum increase per car by reason of change in wage rates shall be one hundred fifty dollars.

It is also understood that in the event any changes in wage rates negotiated shall not increase or decrease the wage rates of all employees in the bargaining unit by a uniform amount per hour, the average amount per hour of increase or decrease shall be determined by agreement between American Car and Foundry Company and Vendee, and that if any increase or decrease in the wage rates occurs after the work of fabricating and construction is in progress, the increase or decrease in wage rates shall be applied only to that portion of work affected that may be determined by agreement between American Car and Foundry Company and Vendee.

2. Vendee shall pay Car Company as the basic purchase price for said cars on the basis of $7,281.83 per freight refrigerator car, f.o.b. Milwaukee, Wisconsin (said price being hereinafter referred to as the "basic purchase price per car"), making an aggregate basic purchase price of $3,640,915.00 for all of said cars, based on the specifications referred to in Section 1 hereof. Any increase or decrease in the basic purchase price per car, because of modifications in the specifications or other conditions hereinbefore in Section 1 hereof set forth, shall be respectively added to, or subtracted from, the basic purchase price per car and the effect of such addition or substraction shall be added to or subtracted from the aggregate basic purchase price for all of said cars as herein stated and the resulting price per car and aggregate price for all of said cars shall be termed "final purchase price per car" and "final aggregate purchase price", respectively, which terms shall also respectively apply to the basic purchase price per car and the aggregate basic purchase price for all of said cars as

hereinabove set forth if there be no change in such prices because of modifications in the specifications or other conditions hereinbefore in Section 1 hereof set forth. Said final aggregate purchase price shall be payable to the Car Company at such place within this country as may be designated by the Car Company, as follows:

(a) Upon delivery to the Vendee and its acceptance at the point of delivery above stated, an amount equal to 20% of the final purchase price per car, on the twenty-fifth day of the month following the month in which the car is delivered, provided that the sum to be so paid upon the delivery of the last cars to be delivered shall be adjusted so as to make the balance of the final aggregate purchase price unpaid in accordance with this subdivision $3,000,000.00, or 80% of the final aggregate purchase price, whichever is less.

(b) The sum of $3,000,000.00, or 80% of the final aggregate purchase price, whichever is less, being the unpaid balance of the final aggregate purchase price of the said cars, in twenty (20) equal semi-annual installments on the first day of April and the first day of October in each year, beginning April 1, 1948, except that the final semi-annual payment shall be in the amount required to pay the entire unpaid balance of the final aggregate purchase price then remaining after application of all previous payments or prepayments credited thereto.

(c) Interest at the rate of one and seventy-three hundredths per cent (1.73%) per annum, computed on the basis of a three hundred and sixty (360) day year, from the date of payment for each car under subdivision (a) hereof or from October 1, 1947, whichever is earlier, payable semi-annually on April 1 and October 1 on that portion of the final purchase price of each such car which is payable under subdivision (b) hereof from time to time unpaid, such payments of interest to be made simultaneously with the payments of principal provided for in subdivision

(b) hereof. The interest payable hereunder from October 1, 1947, shall be payable whether or not all cars have been delivered.

Vendee shall have the right to prepay the then unpaid balance of installments provided for in subdivision (b) hereof at any time on thirty days' previous notice, without premium, either in whole, or in multiples of 5% of such unpaid balance, with interest accrued on the amount of any such prepayment to date of prepayment. Any such prepayment, other than in whole, shall be applied one-half to the earliest maturing installments and one-half to the latest maturing installments.

Vendee shall have the right, at any time during the month of September, 1947, to elect by notifying the Car Company in writing, to pay directly to the American Car and Foundry Company (and not to the assignee of this agreement, if any) upon delivery to and acceptance by it, in lieu of the payments provided in subdivisions (a), (b) and (c) hereof, the full final purchase price per car of any cars which, at the time of such election, shall not have been delivered. In the event of such election by the Vendee, the sum of $3,000,000.00, or 80% of the final aggregate purchase price, whichever is less, as set forth in subdivision (b) hereof, and the amount of each of the twenty (20) semi-annual installments thereof payable beginning April 1, 1948, shall be reduced in proportion to the number of cars so paid for in full. Title to and property in cars paid for in full, pursuant to such election, shall pass to Vendee without further transfer or act upon the part of Car Company, but American Car and Foundry Company shall, if requested by Vendee so to do, execute and deliver to Vendee a bill of sale covering the cars so paid for in full.

3. Car Company shall give Vendee full opportunity to inspect said cars during the construction thereof at its

shops where such cars are being constructed. On completion of each lot of said cars Vendee shall arrange for final inspection thereof and shall have its inspector execute in duplicate the usual form of Certificate of Inspection covering all cars found to be completed in accordance with the plans and specifications. Each such Certificate with respect to the cars covered thereby shall be final and conclusive evidence that such cars conform in workmanship, material, construction, and in all other respects to the requirements and provisions of this agreement. Vendee shall arrange also for acceptance of said cars by a duly authorized agent upon arrival thereof at the place of delivery at Milwaukee, Wisconsin.

4. Car Company shall deliver said cars at Milwaukee, Wisconsin, ready for service and free of all liens and encumbrances and free of any claims of any nature by or in favor of any person or party, and subject only to the reservation of title thereto by Car Company in accordance with the provisions hereof. Delivery of cars shall be commenced on or before June 1, 1947, and shall be completed on or before July 31, 1947; subject to delays due to labor troubles, fires, floods, explosions, or other accidents, or to delays of carriers or of sub-contractors, or in receipt of material, or to any other cause or causes (whether or not of the same general character as those herein specifically enumerated) beyond Car Company's reasonable control.

5. American Car and Foundry Company shall indemnify and save harmless Vendee against all claims, suits, actions or other proceedings, and against all expenses incurred and judgments entered in or as a result of such actions, arising in any way out of alleged infringement of patents covering said cars, or any part or appliance thereof, excepting those patents covering devices and specialties designated by Vendee to be used by American Car and

Foundry Company in the building of such cars and which are not manufactured by American Car and Foundry Company; and Vendee, in like manner, shall indemnify and save harmless American Car and Foundry Company against all claims, suits, actions or other proceedings, and against all expenses incurred and judgments entered in or as a result of such actions, arising in any way out of alleged infringement of patents by reason of the use of or incorporation in said cars of any said devices or specialties, so designated by Vendee to be used by American Car and Foundry Company in the construction of the cars, and which are not manufactured by American Car and Foundry Company.

Prompt notice in writing shall be given by each party to the other of any claim of patent infringement presented to such party with respect to said cars, and the party responsible for such infringement as above provided, shall promptly undertake and assume the defense thereof.

6. All payments by Vendee hereunder shall be free of expenses to Car Company for collection or other charges, and no deductions shall be made therefrom of the amount of any Federal, State or other taxes, assessments or governmental charges hereafter levied or imposed upon said cars or the manufacture thereof, or upon the sale, shipment, delivery or use thereof, and Vendee hereby specifically agrees to pay to Car Company in addition to the above mentioned purchase price of the cars all sales taxes, or like taxes or charges which may be assessed, levied or imposed upon or with respect to the manufacture, sale or delivery to or use by Vendee of said cars, or any of them, and which Car Company may be legally required to pay to any state or municipality or to the United States of America or other government, but in no event shall Vendee be responsible for or required to pay any present existing gross income tax which may be assessed, levied or imposed upon or with

respect to the manufacture, sale or delivery of the cars, any such present existing tax to be borne by American Car and Foundry Company. All payments provided for in this agreement shall be made by Vendee to Car Company in such currency of the United States of America as at the time of payment shall be legal tender for payment of public and private debts.

Vendee shall also pay promptly all taxes, assessments and governmental charges which from time to time may be imposed upon the cars, or the earnings arising therefrom, or the operation thereof, or upon Car Company by reason of its ownership thereof, by any government of any country, state or political subdivision thereof, in which the cars may be located, or which shall have jurisdiction over the cars or any part of them, and Vendee agrees at all times to keep the cars free and clear of all tax liens and encumbrances, other than the lien of taxes not yet due or payable; provided, however, that Vendee shall not be required to pay any tax, assessment or other governmental charge, the validity of which Vendee shall contest in good faith and by appropriate legal proceedings until such contest shall have been decided, unless in the judgment of Car Company its rights and interests in the cars may be materially endangered by such delay.

Vendee shall comply in all respect with all laws of the United States of America and of the States, in or through which the said cars may be operated, covering the use, operation or maintenance of said cars, and with the lawful rules of the Interstate Commerce Commission with respect to the said cars, and of every other legislative, administrative or judicial body exercising any power or jurisdiction over said cars; and in the event that the said laws or rules require any alterations of any of said cars, or any additional equipment or appliances thereon, Vendee shall

conform therewith at its own expense and shall maintain said cars in proper condition for operation under such laws and rules during the life of this agreement.

7. Except as provided in Section 2 hereof, Car Company shall retain full legal title to and property in all said cars until Vendee shall have made all the payments and shall have performed all of the covenants in this agreement provided to be made, kept or performed by Vendee, notwithstanding the delivery of any or all of the cars to and the possession and use thereof by Vendee as herein provided. Any and all replacements of parts of the cars or additional equipment or facilities installed thereon or therein shall constitute accessions to the cars the title to which shall be immediately vested in Car Company, and which shall be subject to all the terms, reservations and conditions of this agreement. When Vendee shall have paid in full the entire purchase price for all of said cars, with interest thereon, and all other payments herein provided to be made by Vendee with respect thereto, title to and property in each and all said cars shall pass to Vendee without further transfer or act on the part of Car Company, but Car Company shall, if requested by Vendee so to do, execute and deliver to Vendee a bill of sale covering the cars when the full purchase price with interest and any and all other payments as aforesaid shall have been fully paid, together with such instrument of satisfaction or release as may be necessary or appropriate for filing or recording in all jurisdictions in which this instrument is filed, registered or recorded as provided for in Section 18 hereof.

8. The Vendee shall insure and keep insured all the cars against loss or damage, the risk of which is customarily insured against by railroad companies, in such man-

ner and to such amount as is customarily insured by railroad companies.

9. Vendee at its own cost shall keep all said cars in good order and proper running repair and in case of damage thereto by fire, accident or otherwise will promptly repair the car or cars so damaged and restore them to good running order. In case any car shall be damaged beyond repair, lost, or destroyed, Vendee shall replace such car with other equipment of similar type and of substantially as good material and construction. Vendee shall cause any such new equipment to be marked as provided in Section 10 hereof, and to be numbered with the same road number as that of the car so replaced. Title to all such new equipment shall be taken in the name of Car Company and shall be immediately subject to all the terms and conditions of this agreement in all respects as though part of the original cars delivered hereunder. Vendee, however, shall have the right, instead of replacing any such lost or destroyed car, to pay to Car Company the then unpaid balance of the purchase price of such car, and such amount shall be credited by Car Company toward payment upon the installment or installments last maturing. Within twenty (20) days after receiving advice of damage to or destruction of any of said cars, Vendee shall give Car Company written notice thereof with full particulars of the extent of the loss or damage incurred. Any failure on the part of Vendee to repair or replace any such car with reasonable promptness or to pay for each car which may be lost or destroyed, shall entitle Car Company to declare a default hereunder and to take such action as is authorized to be taken by Car Company in case of a default by Vendee in making payment for said cars as herein provided.

Vendee shall permit inspection of said cars from time to time by agents of Car Company and upon request of Car Company shall furnish from time to time a statement show-

ing the location (as nearly as may be) and condition of said cars and what, if any, substantial repairs have been made upon any of them since the last preceding report.

10. Before delivery of each of said cars to Vendee, American Car and Foundry Company shall fasten upon each side of each car a metal plate bearing the following words in letters not less than one inch in height: "American Car and Foundry Company, Owner", or, during any time that such metal plates are not reasonably obtainable, such words shall be otherwise plainly, distinctly, permanently and conspicuously marked upon each side of each car. Such plates or marks shall be so located as to be readily visible and to indicate plainly Car Company's ownership of said cars. In the event of a transfer or assignment by American Car and Foundry Company of title to the cars or any of them before or contemporaneously with the delivery thereof, the ownership plates or marks referred to in this paragraph may bear the name of the assignee as owner in lieu of the name of the American Car and Foundry Company. In case, at any time before all moneys due or to become due by Vendee under this agreement shall have been paid in full, such plates or marks shall at any time be removed, defaced or destroyed, Vendee shall immediately, at its own cost, cause the same to be restored or replaced; and if by reason of change of law or otherwise, additional or other plates or marks shall be required to protect the interests of Car Company, Vendee shall provide and install and thereafter maintain the same on all such cars.

The cars may be lettered "Pacific Fruit Express Company", "Pacific Fruit Express", "P. F. E.", and may also be numbered for convenience in identification; but, until all moneys due or to become due by it under this agreement shall have been paid in full, Vendee shall not allow the name of any corporation or other party to be placed on any of

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the cars in such manner that such name or designation might be interpreted as a claim of ownership thereof by any person, association or corporation other than Car Company or its assignee. In case Vendee shall change the number assigned to or placed on any car, immediate notice of such change shall be given to Car Company so that it may correct its records accordingly.

In the event of a transfer or assignment, or successive transfers or assignments by Car Company or its assignees of title to said cars or any of them or of any or all of Car Company's rights hereunder in respect thereof, whenever requested by any such transferee or assignee, Vendee shall change the ownership plates on all such cars to indicate the title of such transferee or assignee to such cars and its succession to any or all rights of Car Company hereunder, but the expense of making such change in plates shall be borne by the party or parties requesting such change in connection with any assignment or transfer subsequent to the first assignment or transfer of any or all of the cars.

11. Vendee shall bear the risk of and shall not be released from its obligations hereunder in the event of any damage to or destruction or loss of any of the said cars from any cause whatsoever after delivery thereof to Vendee. Vendee further agrees to save, indemnify and keep harmless Car Company from and against all loss, damages, injuries, claims or demands whatsoever, regardless of the cause thereof, in connection with any accident or otherwise arising from or caused by operation or use of said cars while this agreement is in force; provided, however, that the provisions of this Section 11 shall in no way affect the obligations of American Car and Foundry Company expressed in Section 5 hereof.

12. All or any of the rights of Car Company under this agreement, including the right to receive the payments

herein provided to be made by Vendee, may be assigned by Car Company and reassigned by any assignee at any time and from time to time, provided, however, that no such assignment shall subject any assignee to, or relieve American Car and Foundry Company or the successor or successors to its manufacturing properties or business from any of the obligations of American Car and Foundry Company as to the construction or delivery of the cars or as to any indemnity with respect thereto, or from any other duty, obligation or liability, except the duty to execute necessary and proper instruments of transfer as and when Vendee shall be entitled thereto pursuant to the provisions of Section 7 hereof, and provided further, that no such assignment shall be deemed to enlarge the obligations of American Car and Foundry Company, or, the Vendee having failed to make any payment or perform any obligation upon its part to be made or performed, subject the American Car and Foundry Company to any liability resulting from any action taken by any assignee or any failure of any assignee to comply with any of the provisions hereof or of any applicable law in the enforcement of any rights of American Car and Foundry Company which may be assigned pursuant to this Section 12 hereof or relieve Vendee of its obligations to Car Company under Sections 5, 6 and 11 hereof.

Upon any such assignment the assignor shall give written notice to the Vendee, together with a counterpart or certified copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all of the Car Company's right, title and interest in and to the cars and each and every part thereof, subject only to such reservations as may be contained in such assignment. From and after the receipt by Vendee of the notification of any such assignment, all payments thereafter to be made by Vendee

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hereunder shall, to the extent so assigned, be made to the assignee or upon its written order.

In the event that this agreement is assigned by Car Company, or reassigned by any assignee, as herein provided, the rights of such assignee to the entire unpaid purchase price or such part thereof as may be assigned, and interest thereon, as well as any other rights as may be so assigned hereunder shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of American Car and Foundry Company or the successor or successors to its manufacturing properties or business in respect to the cars or the manufacture or delivery thereof, or in respect of any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to Vendee by American Car and Foundry Company or the successor or successors to its manufacturing properties or business. Any and all such obligations, howsoever arising, shall be and remain enforceable by Vendee against and only against American Car and Foundry Company and the successor or successors to its manufacturing properties or business, and shall not be enforceable against any party or parties in whom title to the cars or any of them, or the rights of Car Company hereunder, shall vest by reason of any sale, assignment or transfer, or successive sales, assignments or transfers.

The term "Car Company" whenever used in this agreement means, before any assignment of all or any rights of Car Company hereunder as hereinbefore provided in this Section 12, American Car and Foundry Company, and after any such assignment, the assignee or assignees for the time being of all of the rights hereunder, or in the event of any assignment of any less than all of the rights

hereunder, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also the assignor as regards any rights hereunder that are retained and excluded from such assignment; and the term "American Car and Foundry Company" whenever used in this agreement means, both before and after any such assignment, the party hereto of the first part, and any successor or successors for the time being to its manufacturing properties or business.

13. (a) In case Vendee shall make default in the payment of any installment of the purchase price of the cars or interest thereon herein provided for and shall remain in default for more than thirty (30) days after such payment shall have become due and payable, or shall be in default under the provisions of Section 14 hereof; or shall fail or refuse to comply with any other of the terms and covenants in this agreement on its part to be kept and performed, or to make provisions satisfactory to Car Company for such compliance, and any such failure or refusal, other than a default under Section 14 hereof or a default in the payment of a semi-annual installment of the purchase price of the cars or interest thereon as provided hereunder, shall continue for more than thirty (30) days after notice in writing thereof to Vendee, then in any such case (herein sometimes called "events of default") and at any time thereafter during the continuance of such default Car Company without further notice or demand, except to the extent necessary in order to comply with any mandatory legal requirements then in force and applicable to such action by Car Company, may declare the entire unpaid balance of the purchase price of the cars immediately due and payable, without further demand, together with interest thereon then accrued and unpaid at the rate of one and seventy-three hundredths per cent (1.73%) per annum to such date of default; and thereafter interest shall be payable by Vendee upon any portion

thereof overdue during such time as it shall remain overdue at rate of four per cent (4%) per annum; and Car Company shall thereupon be entitled to recover judgment for the entire amount so payable by Vendee with interest thereon at said rate, and to collect such judgment out of any property of Vendee wherever situated. Car Company may, at its election (and, if before sale or before completion of other enforcement of this agreement, all costs and expenses of Car Company incidental to any such default and to the enforcement by Car Company of the provisions hereof, and all sums which shall then have become due and payable by Vendee hereunder, other than such part of said purchase price as shall have become due only because of a declaration of default under this section as aforesaid, shall have been paid by Vendee, and all other existing events of default shall have been remedied, or provision therefor satisfactory to Car Company shall have been made, then and in every such case the Car Company shall) waive any such event of default and its consequences and rescind and annul any such declaration or termination by notice to Vendee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such cured default had existed and no such declaration or termination had been made; but no such waiver, rescission or annulment shall limit or affect Car Company's right, upon any other default, to declare the unpaid balance of said purchase price due as aforesaid, or extend to or affect any other default, or impair any rights or remedies consequent thereon.

(b) If Vendee shall make default as hereinabove provided, then at any time after such notice of declaration of default and during the continuance of such default Car Company without further notice or demand, except to the extent necessary in order to comply with any such manda-

tory legal requirements, may take or cause to be taken by its agent or agents immediate possession of the cars, or any of them, and/or any replacements and improvements, and all present and future attachments and accessories thereof, without liability to return to Vendee any sums theretofore paid, and free from all claims whatsoever except as hereinafter in this Section 13 expressly provided, and may remove the same from the use and possession of Vendee and for such purpose may enter upon Vendee's premises where any of the cars may be located, and may use and employ in connection with such removal any available trackage and other facilities or means of Vendee, without process of law; and Vendee shall assemble and deliver the cars, with all replacements, improvements, equipment, attachments and accessories thereof, at its own cost at such place or places as Car Company may reasonably designate, and in case of such retaking or delivery Car Company shall have the right to store the same upon the premises of Vendee without charge until Car Company shall desire to remove the same therefrom. The assembling and delivery of the cars as hereinbefore provided are of the essence of this agreement between the parties and upon application to any court of equity having jurisdiction in the premises, Car Company shall be entitled to a decree against Vendee requiring specific performance hereof.

(c) If Vendee shall make default as hereinbefore provided, then at any time thereafter during the continuance of such default, and after declaring the entire purchase price immediately due and payable as hereinbefore provided, Car Company with or without retaking possession thereof may sell the cars or any of them, and all replacements thereof, and all improvements, equipment, attachments and accessories placed thereon, free from any and all claims of Vendee, or of any other party claiming by,

through or under it at law or in equity, at public or private sale and with or without advertisement as Car Company may determine, all subject to and in compliance with any mandatory legal requirements then in force and applicable to such sale. To the extent permitted by any such legal requirements, any sale or sales hereunder may be held or conducted at such location and at such time or times as Car Company may fix, in one lot and as an entirety or in separate lots, and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as Car Company may determine in compliance with any such mandatory legal requirements, provided that written notice of such sale shall be given to Vendee at least ten (10) days prior thereto, by telegram or registered mail addressed to Vendee at its office in San Francisco, California, or such other notice, if any, as may be necessary to comply with any such mandatory legal requirements. If such sale shall be a private sale permitted by such legal requirements, it shall be subject to the right of Vendee to purchase or provide a purchaser, within ten (10) days after notice of the proposed sale price, at the same or better price than that offered by the intending purchaser. To the extent not prohibited by any legal requirements then in force and applicable to such sale, Car Company may itself bid for and become the purchaser of the cars, or any of them so offered for sale without accountability to Vendee (except to the extent of surplus money received as hereinafter provided in the last paragraph of this Section 13) and in payment of such purchase price Car Company shall be entitled to the extent aforesaid to have credited on account thereof all sums due to Car Company from Vendee hereunder.

(d) Each and every power or remedy hereby specifically given to Car Company shall be in addition to every other power or remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power

and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by Car Company. All such powers and remedies shall be cumulative and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of Car Company in the exercise of any such power or remedy, and no renewal or extension of any payments due hereunder, shall impair any such power or remedy, or shall be construed to be a waiver of any default, or an acquiescence therein.

(e) If Car Company shall exercise any of the powers or remedies conferred upon it hereunder, Vendee shall have the right after all sums due hereunder to Car Company shall have been received by it in full, including its proper costs and expenses incident to the collection thereof, to require title to any of the cars, if not previously sold or otherwise disposed of by Car Company pursuant to the provisions hereof, to be transferred and assigned by Car Company to Vendee free from any further liabilities or obligations to Car Company. If after applying all sums of money realized by Car Company under the remedies herein provided, there shall remain any amount due it under the provisions of this agreement, Vendee shall pay the amount of such deficit to Car Company. If after applying as aforesaid all sums realized by Car Company there shall remain a surplus in the possession of Car Company, such surplus shall be paid to Vendee.

14. Vendee shall not assign or transfer this agreement or any of its rights hereunder, or transfer or sublet the said cars or any of them without Car Company's written consent first had and obtained, and shall not cause or permit any of said cars to be pledged or held for any debt or obligation owing by Vendee or to be in any manner en-

cumbered, and shall not suffer the said cars or any of them to pass out of Vendee's control except that Vendee, so long as it shall not be in default under this agreement, shall be entitled to the possession of the cars and to use or permit the use of the same upon lines of railroads constituting the Union Pacific lines or Southern Pacific lines and upon other railroads in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this agreement, and may receive compensation for such use.

The filing by Vendee or by creditors of Vendee of any petition for reorganization (or debt adjustment affecting the obligations of Vendee under this agreement) under Chapter X or Chapter XI of the Bankruptcy Act or under any amendment or revision thereof or under any other provision of the Bankruptcy Act as now or hereafter existing, or any voluntary assignment or transfer of Vendee's interest in and under this agreement, or any involuntary transfer of such interest by bankruptcy, or by the appointment of a receiver or trustee, or by execution, or by any judicial or administrative decree or process, or otherwise (unless such petition shall be dismissed or such assignment, transfer, decree or process shall within thirty (30) days from the filing or other effective date thereof, be nullified, stayed or otherwise rendered ineffective, or unless any such receiver(s) or trustee(s) shall within thirty (30) days from the date of his or their appointment adopt this agreement pursuant to due authority of the court of his or their appointment) shall be deemed a breach of this agreement and a default hereunder; whereupon Car Company may elect to declare the entire unpaid balance of the purchase price immediately due and payable as hereinbefore provided and may thereupon forthwith retake possession of the cars or any of them and exercise and enforce any and all other remedies as provided by Section 13 hereof.

15. Wherever provision is made in this agreement for any notice or demand to or upon Vendee, or if at any time, Car Company shall desire to give notice to or make any demand upon Vendee, the same may be given or made by depositing a written statement thereof, enclosed in a postpaid envelope in any United States Post Office, directed to Vendee by registered mail at its office, No. 85 Second Street, San Francisco 5, California, or at such other address as Vendee may specify in writing, and an affidavit by any person so depositing such notice in respect of such mailing shall be deemed to be and shall be conclusive evidence of the giving and receipt of such notice and of the making of such demand.

16. Any provision of this agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this agreement into an instrument other than an agreement of conditional sale, shall as to such state be ineffective, without modifying as to such state the remaining provisions of this agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by Vendee to the full extent permitted by law.

17. Any extension of time granted by Car Company to Vendee for the payment of any sum due under this agreement shall not be deemed a waiver of the title of Car Company reserved hereunder nor of any of its rights and remedies hereunder or otherwise existing.

18. Vendee at its own expense shall cause this agreement and the first assignment thereof, to be filed, registered and recorded wherever required for the proper protection of the title of American Car and Foundry Company, or its first assignee, to the cars and any replacement or replacements thereof, and of its rights under this agreement; and

Vendee shall from time to time do and perform any other act, and will execute, acknowledge, deliver, file, register and record any and all further instruments, required by law or reasonably requested by American Car and Foundry Company, or its first assignee, for the purpose of such protection of its title and rights, or for the purpose of carrying out the intention of this agreement.

19. Vendee shall pay also all costs, charges and expenses, except counsel fees of American Car and Foundry Company or of any assignee, incident to the preparation, execution, acknowledgment, filing, registering and recording of this agreement and of any instrument supplemental hereto or amendatory hereof above referred to, excepting only assignments or instruments of transfer subsequent to the first assignment or transfer between American Car and Foundry Company and its assignee or assignees.

20. This agreement may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

21. This agreement of conditional sale, together with the specifications hereinabove referred to, constitutes the entire agreement between Vendee and Car Company with respect to the construction, delivery and sale of the cars above referred to. No variation or modification of this agreement, and no waiver of any of its provisions or conditions, shall be valid unless in writing and signed by duly authorized officers of Vendee and Car Company.

IN WITNESS WHEREOF, Car Company and Vendee, respectively, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names and their respective corporate seals to be hereunto affixed, duly attested as of the day and year first above written.

AMERICAN CAR AND FOUNDRY COMPANY,

By R. H. Williams
Vice President.

[CORPORATE SEAL]

Attest: H. E. Wick
Secretary.

Signed, sealed and delivered in the presence of:
S. W. Dodwell
H. D. Hales

PACIFIC FRUIT EXPRESS COMPANY,

By E. B. Conrad
President.

[CORPORATE SEAL]

Attest: A. B. Sherwood
Secretary.

Signed, sealed and delivered in the presence of:
J. M. Blair
Jas. G. Reeley

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ments to become due from the Pacific Fruit Express Company under said agreement, provided, however, that this assignment is without any recourse against Car Company for or on account of the failure of the Pacific Fruit Express Company to make any payments provided for in or otherwise to comply with any of the provisions of the said agreement of conditional sale, and provided further that this assignment shall not subject Assignee to or relieve Car Company, or the successor or successors to its manufacturing property or business, from any of the obligations of Car Company to Pacific Fruit Express Company to construct and deliver the cars as in said agreement of conditional sale provided, or to comply with the provisions of Sections 5 and 12 of said agreement of conditional sale, or relieve Pacific Fruit Express Company, so far as the construction, sale and delivery of the cars are concerned under Sections 5, 6 and 11 of said agreement of conditional sale.

2. The rights of Assignee to the entire unpaid purchase price of said Five Hundred (500) freight refrigerator cars, and interest thereon, as well as any other rights as may be so assigned hereunder, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of Car Company, or the successor or successors to its manufacturing properties and business, in respect of the manufacture or delivery of the cars or under Sections 5 and 12 of said agreement of conditional sale, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time

able against Assignee or any party or parties in whom title to the cars or any of them or the rights of Car Company under said agreement of conditional sale shall vest by reason of this assignment or transfer or of successive sales, assignments or transfers.

3. Car Company covenants and agrees that it will construct all said cars in full and complete accordance with the specifications and plans, as set forth in said agreement of conditional sale, and will deliver said cars, on completion thereof, to said Pacific Fruit Express Company free of all liens and encumbrances except said agreement of conditional sale, and in accordance with the provisions of said agreement of conditional sale and that, notwithstanding this assignment, it will perform and fully comply with the provisions of Sections 4, 5 and 12 of said agreement of conditional sale. The Car Company further covenants and agrees that it has good and lawful right to sell the cars as aforesaid and that it will warrant and defend the same against the lawful demands of all persons whomsoever based on claims originating prior to the delivery of the cars by the Car Company to Pacific Fruit Express Company; all subject, however, to the provisions of the agreement of conditional sale and the rights of Pacific Fruit Express Company thereunder.

4. Car Company, upon completion and delivery of each lot of said cars, shall execute and deliver to Assignee, for the purpose of effectuating this assignment, one or more bills of sale transferring to Assignee title to all cars in each

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such lot concurrently with shipment and delivery thereof to Pacific Fruit Express Company, and shall forward to Assignee, with such executed bills of sale, documents evidencing the delivery of the cars included in each such lot and the acceptance thereof by said Pacific Fruit Express Company, all in accordance with the said agreement of conditional sale.

Upon receipt of each such bill of sale and upon payment by Pacific Fruit Express Company to the Assignee of that portion of the purchase price of the cars covered by such bill of sale which under subdivision (a) of Section 2 of the agreement of conditional sale is payable by Pacific Fruit Express Company upon delivery thereof, Assignee shall pay to the Car Company the sum of $7,281.83 for each and every car so delivered, or (as soon as such final price shall be computed and agreed upon) such greater or lesser sum as shall represent the actual purchase price payable with respect to each such car in accordance with Section 1 of said agreement of conditional sale, the total amount to be paid by Assignee for all of said cars being the aggregate purchase price of $3,640,915.00 (unless reduced by payments by Pacific Fruit Express Company, at its election, directly to the Car Company, as permitted by Section 2 of the said agreement of conditional sale) increased or decreased as a result of the changes in the purchase price per car provided for in Section 1 of said agreement of conditional sale.

5. Car Company hereby represents and warrants to Assignee and its successors and assigns:

(a) That said agreement of conditional sale was lawfully executed for a valid consideration and that it is a valid existing contract and, according to its terms, binding upon the parties thereto.

(b) That the cars therein provided for are now under construction according to schedule and will be completed

and delivered at the time and in the manner in said agreement of conditional sale provided.

(c) That no payments have been made by Pacific Fruit Express Company to Car Company under said agreement of conditional sale and that, upon completion and delivery of said cars, each and all of the installment payments will become due and payable in the amounts and at the times as set forth in said agreement of conditional sale.

6. Without hereby limiting the generality of the foregoing assignment, Car Company hereby authorizes and empowers Assignee to sue for, collect, receive and enforce, in the name of the Assignee, at the expense and liability and for the sole benefit of Assignee, with full power to Assignee to substitute any one or more persons with like power, the payment of all sums and to enforce all action to be taken by Pacific Fruit Express Company under said agreement of conditional sale in respect of said cars.

7. Car Company covenants and agrees with Assignee that in any suit or action brought by Assignee for the recovery of any sum or sums provided in said agreement of conditional sale to be paid by Pacific Fruit Express Company, Car Company will indemnify and keep harmless Assignee from any and all expenses, losses and damages suffered by reason of any defense, setoff, counterclaim or recoupment of Pacific Fruit Express Company arising out of the breach by Car Company of Car Company's obligations to construct and deliver the said cars in accordance with the provisions of said agreement of conditional sale or of Car Company's obligations under Sections 5 and/or 12 of said agreement of conditional sale. Car Company agrees to indemnify, save and keep harmless Assignee from and against any and all royalties, damages, claims, suits, judgments and costs that may arise because of the claim that the use of any design, device, articles or specialty in the

construction of the cars and thereon at the time of their delivery (except any design, device, articles or specialty designated, specified or required by the Pacific Fruit Express Company and not manufactured by Car Company) infringes any patent.

8. It is mutually agreed that the Assignee may assign its rights under the agreement of conditional sale in respect of all or any designated number of said cars, including the right to receive any payments due or to become due to it from the Pacific Fruit Express Company thereunder in respect to such cars. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all of the obligations of the Assignee hereunder.

9. The Car Company covenants and agrees that it will, from time to time and at all times, at the request of the Assignee, or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises, to give effect to the provisions herein set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

10. The Car Company covenants and agrees that, at the time of delivery of each car to Pacific Fruit Express Company, Car Company will fasten upon each side of each car a metal plate bearing the following words in letters not less than one inch in height: "Mellon National Bank and Trust Company, Owner, by assignment from American Car and Foundry Company, Vendor." or, if such metal plates are not reasonably obtainable, such words shall be otherwise plainly, distinctly, permanently and conspicuously marked upon each side of each car.

11. This agreement and assignment may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

IN WITNESS WHEREOF, Car Company and Assignee, respectively, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names and their respective corporate seals to be hereunto affixed, duly attested, as of the day and year first above written.

AMERICAN CAR AND FOUNDRY COMPANY,

By R. D. Williams
Vice President.

[CORPORATE SEAL]

Attest: H. Clark
Secretary.

Signed, sealed and delivered in the presence of:
S. W. Dodwell
A. J. Haley

MELLON NATIONAL BANK AND TRUST COMPANY,

By J. M. Haymaker
Vice President.

[CORPORATE SEAL]

Attest: E. D. Hayes
Secretary.

Signed, sealed and delivered in the presence of:
J. H. Peterson
C. Robinson

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STATE OF NEW YORK, } ss.:
COUNTY OF NEW YORK, }

BE IT REMEMBERED, and I do hereby certify that on this 9th day of April, A. D., 1947, before me, WILSON P. DIZARD, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared R. A. WILLIAMS, Vice President, and H. C. WICK, Secretary, of American Car and Foundry Company, a corporation incorporated and existing under and by the laws of the State of New Jersey and one of the corporations described in and which executed the within and foregoing instrument, dated as of October 1, 1946, who are known to me to be Vice President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Secretary, respectively, and the said H. C. WICK as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Secretary, respectively, for the uses and purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said R. A. WILLIAMS and H. C. WICK, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said R. A. WILLIAMS, resides in the City of New York, and State of New York, and is Vice President and an officer, and that he, said H. C. WICK, resides in Westfield, New Jersey, and is Secretary and an officer, of said American Car and Foundry Company, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said R. A. WILLIAMS and H. C. WICK acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the State of New York.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire March 30, 1948.

I am not a stockholder, director or officer of or in American Car and Foundry Company.

Appearers:
R. A. Williams
H. C. Wick

Attesting Witnesses:
B. W. Dodwell
W. J. Haley

Wilson P. Dizard
Wilson P. Dizard
Notary Public in the State of New York
Residing in Richmond County
Certificate Filed in
N. Y. Co. Clk's No. 30, Reg. No. 150-D-8
Commission Expires March 30, 1948

[NOTARIAL SEAL]

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COMMONWEALTH OF PENNSYLVANIA, } ss.:
COUNTY OF ALLEGHENY, }

BE IT REMEMBERED, and I do hereby certify that on this 29th day of March, A. D., 1947, before me, ROBERT KANE, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared J. S. RAYMOND, Vice President, and E. D. HAYES, Secretary, of Mellon National Bank and Trust Company, a corporation incorporated and existing under and by the laws of the United States of America and one of the corporations described in and which executed the within and foregoing instrument, dated as of October 1, 1946, who are known to me to be Vice President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Secretary, respectively, and the said E. D. HAYES, as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Secretary, respectively, for the uses, purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said J. S. RAYMOND and E. D. HAYES, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said J. S. RAYMOND, resides in Pittsburgh, Pa., and is Vice President and an officer, and that he, said E. D. HAYES, resides in Mt. Lebanon Township, Allegheny County, Pa., and is Secretary and an officer, of said Mellon National Bank and Trust Company, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said J. S. RAYMOND and E. D. HAYES acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the Commonwealth of Pennsylvania.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire January 24, 1951.

I am not a stockholder, director or officer of or in Mellon National Bank and Trust Company.

Appearers:
J. S. Raymond
E. D. Hayes

Attesting Witnesses:
J. F. Petcavin
C. J. Robinson

Robert Kane
Robert Kane, Notary Public
My Commission Expires January 24, 1951

[NOTARIAL SEAL]

State of Wisconsin } ss.
DEPARTMENT OF STATE

Received this 14TH day of APRIL A. D. 1947 at 10:00 o'clock A. M. and recorded in Vol. 39 of RAILROAD MORTGAGES on pages 432-449 INCL.

Fred C. Zimmerman
Assistant Secretary of State

(Fee $14.25)

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AGREEMENT OF CONDITIONAL SALE

This Agreement, dated as of the 1st day of October, 1946, by and between PULLMAN-STANDARD CAR MANUFACTURING COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Delaware, hereinafter sometimes called "Car Company", party of the first part, and PACIFIC FRUIT EXPRESS COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Utah, hereinafter called "Vendee", party of the second part,

WITNESSETH:

That, in consideration of the mutual promises of the parties hereto, hereinafter set forth, the parties hereto agree as follows:

1. Car Company shall build Five Hundred (500) 80,000-pound capacity steel-sheathed, wood-lined freight refrigerator cars, as described below (hereinafter collectively sometimes called the "cars"), and shall sell and deliver said cars on completion thereof to Vendee f.o.b. rails of trunk line railroads, Milwaukee, Wisconsin, and Vendee shall accept delivery of and purchase said cars on completion thereof, subject to each and all the terms and conditions of this agreement.

DESCRIPTION OF EQUIPMENT.

Five Hundred (500) 80,000-pound capacity steel-sheathed, wood-lined freight refrigerator cars (high tensile steel design), Class R-40-23, with 80,000-pound capacity trucks, convertible ice tanks, air circulating fans and one-

wear wrought steel wheels, in accordance with P. F. E. Specification No. 74-G, dated February 15, 1946.

Lettering—in accordance with P. F. E. Specification No. 74-G and blueprints and specifications furnished.

Car Numbers—7001 to 7500, both inclusive.

Order No. NC-123.

The basic purchase price for each of said cars shall be $7,277.58, f.o.b. rails of trunk line railroads, Milwaukee, Wisconsin, which amount shall be the actual purchase price unless said amount be increased or decreased because of modifications in specifications mutually agreed upon by the parties hereto, or because of conditions as hereinafter in this Section 1 provided, in which event the increased or decreased amount shall be the actual purchase price. Interest shall be paid at the rate of one and seventy-three hundredths per cent (1.73%) per annum upon unpaid balances of the actual purchase price at the time and in the manner specified in Section 2 of this agreement.

It is understood that the basic price of $7,277.58 for each car is the net price for the cars, completed and delivered f.o.b. Milwaukee, Wisconsin, as shown on Revision No. 3, dated as of February 14, 1947, to cost sheet attached to and made a part of Vendee's order NC-123, for these cars. Said basic price is based on (a) specialties and prices therefor as set forth in original Exhibit "A" attached to said Order No. NC-123, dated May 15, 1946, and supplement thereto dated August 2, 1946, adjusted for those changes set forth in Revisions thereof to and including said Revision No. 3, dated February 14, 1947; and (b) on prices of all other materials required for said cars quoted by suppliers and on freight rates, in effect as of April 15, 1946, from Car Company's normal sources of supply, as set forth in Car Company's proposal for these cars as of that date.

If there should be any other changes in the specifications or in the price of any specialty used for said cars (excluding all such changes for which adjustment has already been made) affecting the cost of the cars, or if the actual price required to be paid by Car Company for steel, lumber or any other material (other than specialties) required in the building of these cars delivered at Car Company's plant, should be more or less than the prices thereof in effect as of April 15, 1946; or if freight rates charged for the delivery of any such material or for delivery of the cars should be increased or decreased over or under the rates in effect as of April 15, 1946, the above basic price of the cars will be increased or decreased accordingly.

It is further understood that if, as a result of negotiations with labor organizations representing the employees at the plant of Car Company where the cars are built, the wage rates for those employees are increased or decreased by one cent or more per hour from the present wage rates, the cost of the cars will be increased or decreased by ten dollars per car for each one-cent change from the presently established wage rates; and it is agreed that the maximum increase per car by reason of change in wage rates shall be one hundred fifty dollars.

It is also understood that in the event any changes in wage rates negotiated shall not increase or decrease the wage rates of all employees in the bargaining unit by a uniform amount per hour, the average amount per hour of increase or decrease shall be determined by agreement between Pullman-Standard Car Manufacturing Company and Vendee, and that if any increase or decrease in the wage rates occurs after the work of fabricating and construction is in progress, the increase or decrease in wage rates shall be applied only to that portion of work affected that may be determined by agreement between Pullman-Standard Car Manufacturing Company and Vendee.

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2. Vendee shall pay Car Company as the basic purchase price for said cars on the basis of $7,277.58 per freight refrigerator car, f.o.b. Milwaukee, Wisconsin (said price being hereinafter referred to as the "basic purchase price per car"), making an aggregate basic purchase price of $3,638,790.00 for all of said cars, based on the specifications referred to in Section 1 hereof. Any increase or decrease in the basic purchase price per car, because of modifications in the specifications or other conditions hereinbefore in Section 1 hereof set forth, shall be respectively added to, or subtracted from, the basic purchase price per car and the effect of such addition or subtraction shall be added to or subtracted from the aggregate basic purchase price for all of said cars as herein stated and the resulting price per car and aggregate price for all of said cars shall be termed "final purchase price per car" and "final aggregate purchase price", respectively, which terms shall also respectively apply to the basic purchase price per car and the aggregate basic purchase price for all of said cars as hereinabove set forth if there be no change in such prices because of modifications in the specifications or other conditions hereinbefore in Section 1 hereof set forth. Said final aggregate purchase price shall be payable to the Car Company at such place within this country as may be designated by the Car Company, as follows:

(a) Upon delivery to the Vendee and its acceptance at the point of delivery above stated, an amount equal to 20% of the final purchase price per car, on the twenty-fifth day of the month following the month in which the car is delivered, provided that the sum to be so paid upon the delivery of the last cars to be delivered shall be adjusted so as to make the balance of the final aggregate purchase price unpaid in accordance with this subdivision $3,000,000.00, or 80% of the final aggregate purchase price, whichever is less.

(b) The sum of $3,000,000.00, or 80% of the final aggregate purchase price, whichever is less, being the unpaid balance of the final aggregate purchase price of the said cars, in twenty (20) equal semi-annual installments on the first day of April and the first day of October in each year, beginning April 1, 1948, except that the final semi-annual payment shall be in the amount required to pay the entire unpaid balance of the final aggregate purchase price then remaining after application of all previous payments or prepayments credited thereto.

(c) Interest at the rate of one and seventy-three hundredths per cent (1.73%) per annum, computed on the basis of a three hundred and sixty (360) day year, from the date of payment for each car under subdivision (a) hereof or from October 1, 1947, whichever is earlier, payable semi-annually on April 1 and October 1 on that portion of the final purchase price of each such car which is payable under subdivision (b) hereof from time to time unpaid, such payments of interest to be made simultaneously with the payments of principal provided for in subdivision (b) hereof. The interest payable hereunder from October 1, 1947, shall be payable whether or not all cars have been delivered.

Vendee shall have the right to prepay the then unpaid balance of installments provided for in subdivision (b) hereof at any time on thirty days' previous notice, without premium, either in whole, or in multiples of 5% of such unpaid balance, with interest accrued on the amount of any such prepayment to date of prepayment. Any such prepayment, other than in whole, shall be applied one-half to the earliest maturing installments and one-half to the latest maturing installments.

Vendee shall have the right, at any time during the month of September, 1947, to elect by notifying the Car Company in writing, to pay directly to the Pullman-Standard

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Car Manufacturing Company (and not to the assignee of this agreement, if any) upon delivery to and acceptance by it, in lieu of the payments provided in subdivisions (a), (b) and (c) hereof, the full final purchase price per car of any cars which, at the time of such election, shall not have been delivered. In the event of such election by the Vendee, the sum of $3,000,000.00, or 80% of the final aggregate purchase price, whichever is less, as set forth in subdivision (b) hereof, and the amount of each of the twenty (20) semi-annual installments thereof payable beginning April 1, 1948, shall be reduced in proportion to the number of cars so paid for in full. Title to and property in cars paid for in full, pursuant to such election, shall pass to Vendee without further transfer or act upon the part of Car Company, but Pullman-Standard Car Manufacturing Company shall, if requested by Vendee so to do, execute and deliver to Vendee a bill of sale covering the cars so paid for in full.

3. Car Company shall give Vendee full opportunity to inspect said cars during the construction thereof at its shops where such cars are being constructed. On completion of each lot of said cars Vendee shall arrange for final inspection thereof and shall have its inspector execute in duplicate the usual form of Certificate of Inspection covering all cars found to be completed in accordance with the plans and specifications. Each such Certificate with respect to the cars covered thereby shall be final and conclusive evidence that such cars conform in workmanship, material, construction, and in all other respects to the requirements and provisions of this agreement. Vendee shall arrange also for acceptance of said cars by a duly authorized agent upon arrival thereof at the place of delivery at Milwaukee, Wisconsin.

4. Car Company shall deliver said cars at Milwaukee, Wisconsin, ready for service and free of all liens and encumbrances and free of any claims of any nature by or in favor of any person or party, and subject only to the reservation of title thereto by Car Company in accordance with the provisions hereof. Delivery of cars shall be commenced on or before May 1, 1947, and shall be completed on or before July 31, 1947; subject to delays due to labor troubles, fires, floods, explosions, or other accidents, or to delays of carriers or of sub-contractors, or in receipt of material, or to any other cause or causes (whether or not of the same general character as those herein specifically enumerated) beyond Car Company's reasonable control.

5. Pullman-Standard Car Manufacturing Company shall indemnify and save harmless Vendee against all claims, suits, actions or other proceedings, and against all expenses incurred and judgments entered in or as a result of such actions, arising in any way out of alleged infringement of patents covering said cars, or any part or appliance thereof, excepting those patents covering devices and specialties designated by Vendee to be used by Pullman-Standard Car Manufacturing Company in the building of such cars and which are not manufactured by Pullman-Standard Car Manufacturing Company; and Vendee, in like manner, shall indemnify and save harmless Pullman-Standard Car Manufacturing Company against all claims, suits, actions or other proceedings, and against all expenses incurred and judgments entered in or as a result of such actions, arising in any way out of alleged infringement of patents by reason of the use of or incorporation in said cars of any said devices or specialties, so designated by Vendee to be used by Pullman-Standard Car Manufacturing Company in the construction of the cars, and which are not manufactured by Pullman-Standard Car Manufacturing Company.

Prompt notice in writing shall be given by each party to the other of any claim of patent infringement presented to

such party with respect to said cars, and the party responsible for such infringement as above provided, shall promptly undertake and assume the defense thereof.

6. All payments by Vendee hereunder shall be free of expenses to Car Company for collection or other charges, and no deductions shall be made therefrom of the amount of any Federal, State or other taxes, assessments or governmental charges hereafter levied or imposed upon said cars or the manufacture thereof, or upon the sale, shipment, delivery or use thereof, and Vendee hereby specifically agrees to pay to Car Company in addition to the above mentioned purchase price of the cars all sales taxes, or like taxes or charges which may be assessed, levied or imposed upon or with respect to the manufacture, sale or delivery to or use by Vendee of said cars, or any of them, and which Car Company may be legally required to pay to any state or municipality or to the United States of America or other government, but in no event shall Vendee be responsible for or required to pay any present existing gross income tax which may be assessed, levied or imposed upon or with respect to the manufacture, sale or delivery of the cars, any such present existing tax to be borne by Pullman-Standard Car Manufacturing Company. All payments provided for in this agreement shall be made by Vendee to Car Company in such currency of the United States of America as at the time of payment shall be legal tender for payment of public and private debts.

Vendee shall also pay promptly all taxes, assessments and governmental charges which from time to time may be imposed upon the cars, or the earnings arising therefrom, or the operation thereof, or upon Car Company by reason of its ownership thereof, by any government of any country, state or political subdivision thereof, in which the cars may be located, or which shall have jurisdiction over the cars or

any part of them, and Vendee agrees at all times to keep the cars free and clear of all tax liens and encumbrances, other than the lien of taxes not yet due or payable; provided, however, that Vendee shall not be required to pay any tax, assessment or other governmental charge, the validity of which Vendee shall contest in good faith and by appropriate legal proceedings until such contest shall have been decided, unless in the judgment of Car Company its rights and interests in the cars may be materially endangered by such delay.

Vendee shall comply in all respects with all laws of the United States of America and of the States, in or through which the said cars may be operated, covering the use, operation or maintenance of said cars, and with the lawful rules of the Interstate Commerce Commission with respect to the said cars, and of every other legislative, administrative or judicial body exercising any power or jurisdiction over said cars; and in the event that the said laws or rules require any alterations of any of said cars, or any additional equipment or appliances thereon, Vendee shall conform therewith at its own expense and shall maintain said cars in proper condition for operation under such laws and rules during the life of this agreement.

7. Except as provided in Section 2 hereof, Car Company shall retain full legal title to and property in all said cars until Vendee shall have made all the payments and shall have performed all of the covenants in this agreement provided to be made, kept or performed by Vendee, notwithstanding the delivery of any or all of the cars to and the possession and use thereof by Vendee as herein provided. Any and all replacements of parts of the cars or additional equipment or facilities installed thereon or therein shall constitute accessions to the cars the title to which shall be immediately vested in Car Company, and which

shall be subject to all the terms, reservations and conditions of this agreement. When Vendee shall have paid in full the entire purchase price for all of said cars, with interest thereon, and all other payments herein provided to be made by Vendee with respect thereto, title to and property in each and all said cars shall pass to Vendee without further transfer or act on the part of Car Company, but Car Company shall, if requested by Vendee so to do, execute and deliver to Vendee a bill of sale covering the cars when the full purchase price with interest and any and all other payments as aforesaid shall have been fully paid, together with such instrument of satisfaction or release as may be necessary or appropriate for filing or recording in all jurisdictions in which this instrument is filed, registered or recorded as provided for in Section 18 hereof.

8. The Vendee shall insure and keep insured all the cars against loss or damage, the risk of which is customarily insured against by railroad companies, in such manner and to such amount as is customarily insured by railroad companies.

9. Vendee at its own cost shall keep all said cars in good order and proper running repair and in case of damage thereto by fire, accident or otherwise will promptly repair the car or cars so damaged and restore them to good running order. In case any car shall be damaged beyond repair, lost, or destroyed, Vendee shall replace such car with other equipment of similar type and of substantially as good material and construction. Vendee shall cause any such new equipment to be marked as provided in Section 10 hereof, and to be numbered with the same road number as that of the car so replaced. Title to all such new equipment shall be taken in the name of Car Company and shall be immediately subject to all the terms and conditions of

this agreement in all respects as though part of the original cars delivered hereunder. Vendee, however, shall have the right, instead of replacing any such lost or destroyed car, to pay to Car Company the then unpaid balance of the purchase price of such car, and such amount shall be credited by Car Company toward payment upon the installment or installments last maturing. Within twenty (20) days after receiving advice of damage to or destruction of any of said cars, Vendee shall give Car Company written notice thereof with full particulars of the extent of the loss or damage incurred. Any failure on the part of Vendee to repair or replace any such car with reasonable promptness or to pay for each car which may be lost or destroyed, shall entitle Car Company to declare a default hereunder and to take such action as is authorized to be taken by Car Company in case of a default by Vendee in making payment for said cars as herein provided.

Vendee shall permit inspection of said cars from time to time by agents of Car Company and upon request of Car Company shall furnish from time to time a statement showing the location (as nearly as may be) and condition of said cars and what, if any, substantial repairs have been made upon any of them since the last preceding report.

10. Before delivery of each of said cars to Vendee, Pullman-Standard Car Manufacturing Company shall fasten upon each side of each car a metal plate bearing the following words in letters not less than one inch in height: "Pullman-Standard Car Manufacturing Company, Owner", or, during any time that such metal plates are not reasonably obtainable, such words shall be otherwise plainly, distinctly, permanently and conspicuously marked upon each side of each car. Such plates or marks shall be so located as to be readily visible and to indicate plainly Car Company's

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ownership of said cars. In the event of a transfer or assignment by Pullman-Standard Car Manufacturing Company of title to the cars or any of them before or contemporaneously with the delivery thereof, the ownership plates or marks referred to in this paragraph may bear the name of the assignee as owner in lieu of the name of the Pullman-Standard Car Manufacturing Company. In case, at any time before all moneys due or to become due by Vendee under this agreement shall have been paid in full, such plates or marks shall at any time be removed, defaced or destroyed, Vendee shall immediately, at its own cost, cause the same to be restored or replaced; and if by reason of change of law or otherwise, additional or other plates or marks shall be required to protect the interests of Car Company, Vendee shall provide and install and thereafter maintain the same on all such cars.

The cars may be lettered "Pacific Fruit Express Company", "Pacific Fruit Express", "P. F. E.", and may also be numbered for convenience in identification; but, until all moneys due or to become due by it under this agreement shall have been paid in full, Vendee shall not allow the name of any corporation or other party to be placed on any of the cars in such manner that such name or designation might be interpreted as a claim of ownership thereof by any person, association or corporation other than Car Company or its assignee. In case Vendee shall change the number assigned to or placed on any car, immediate notice of such change shall be given to Car Company so that it may correct its records accordingly.

In the event of a transfer or assignment, or successive transfers or assignments by Car Company or its assignees of title to said cars or any of them or of any or all of Car Company's rights hereunder in respect thereof, whenever

requested by any such transferee or assignee, Vendee shall change the ownership plates on all such cars to indicate the title of such transferee or assignee to such cars and its succession to any or all rights of Car Company hereunder, but the expense of making such change in plates shall be borne by the party or parties requesting such change in connection with any assignment or transfer subsequent to the first assignment or transfer of any or all of the cars.

11. Vendee shall bear the risk of and shall not be released from its obligations hereunder in the event of any damage to or destruction or loss of any of the said cars from any cause whatsoever after delivery thereof to Vendee. Vendee further agrees to save, indemnify and keep harmless Car Company from and against all loss, damages, injuries, claims or demands whatsoever, regardless of the cause thereof, in connection with any accident or otherwise arising from or caused by operation or use of said cars while this agreement is in force; provided, however, that the provisions of this Section 11 shall in no way affect the obligations of Pullman-Standard Car Manufacturing Company expressed in Section 5 hereof.

12. All or any of the rights of Car Company under this agreement, including the right to receive the payments herein provided to be made by Vendee, may be assigned by Car Company and reassigned by any assignee at any time and from time to time, provided, however, that no such assignment shall subject any assignee to, or relieve Pullman-Standard Car Manufacturing Company or the successor or successors to its manufacturing properties or business from any of the obligations of Pullman-Standard Car Manufacturing Company as to the construction or delivery of the cars or as to any indemnity with respect thereto, or from any other duty, obligation or liability, except the duty to execute necessary and proper instruments of transfer as

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and when Vendee shall be entitled thereto pursuant to the provisions of Section 7 hereof, and provided further, that no such assignment shall be deemed to enlarge the obligations of Pullman-Standard Car Manufacturing Company, or, the Vendee having failed to make any payment or perform any obligation upon its part to be made or performed, subject the Pullman-Standard Car Manufacturing Company to any liability resulting from any action taken by any assignee or any failure of any assignee to comply with any of the provisions hereof or of any applicable law in the enforcement of any rights of Pullman-Standard Car Manufacturing Company which may be assigned pursuant to this Section 12 hereof or relieve Vendee of its obligations to Car Company under Sections 5 and 6 hereof.

Upon any such assignment the assignor shall give written notice to the Vendee, together with a counterpart or certified copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all of the Car Company's right, title and interest in and to the cars and each and every part thereof, subject only to such reservations as may be contained in such assignment. From and after the receipt by Vendee of the notification of any such assignment, all payments thereafter to be made by Vendee hereunder shall, to the extent so assigned, be made to the assignee or upon its written order.

In the event that this agreement is assigned by Car Company, or reassigned by any assignee, as herein provided, the rights of such assignee to the entire unpaid purchase price or such part thereof as may be assigned, and interest thereon, as well as any other rights as may be so assigned hereunder shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of Pullman-Standard Car Manufacturing Company or the successor or successors to its

manufacturing properties or business in respect to the cars or the manufacture or delivery thereof, or in respect of any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to Vendee by Pullman-Standard Car Manufacturing Company or the successor or successors to its manufacturing properties or business. Any and all such obligations, howsoever arising, shall be and remain enforceable by Vendee against and only against Pullman-Standard Car Manufacturing Company and the successor or successors to its manufacturing properties or business, and shall not be enforceable against any party or parties in whom title to the cars or any of them, or the rights of Car Company hereunder, shall vest by reason of any sale, assignment or transfer, or successive sales, assignments or transfers.

The term "Car Company" whenever used in this agreement means, before any assignment of all or any rights of Car Company hereunder as hereinbefore provided in this Section 12, Pullman-Standard Car Manufacturing Company, and after any such assignment, the assignee or assignees for the time being of all of the rights hereunder, or in the event of any assignment of any less than all of the rights hereunder, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also the assignor as regards any rights hereunder that are retained and excluded from such assignment; and the term "Pullman-Standard Car Manufacturing Company" whenever used in this agreement means, both before and after any such assignment, the party hereto of the first part, and any successor or successors for the time being to its manufacturing properties or business.

13. (a) In case Vendee shall make default in the payment of any installment of the purchase price of the cars

or interest thereon herein provided for and shall remain in default for more than thirty (30) days after such payment shall have become due and payable, or shall be in default under the provisions of Section 14 hereof; or shall fail or refuse to comply with any other of the terms and covenants in this agreement on its part to be kept and performed, or to make provisions satisfactory to Car Company for such compliance, and any such failure or refusal, other than a default under Section 14 hereof or a default in the payment of a semi-annual installment of the purchase price of the cars or interest thereon as provided hereunder, shall continue for more than thirty (30) days after notice in writing thereof to Vendee, then in any such case (herein sometimes called "events of default") and at any time thereafter during the continuance of such default Car Company without further notice or demand, except to the extent necessary in order to comply with any mandatory legal requirements then in force and applicable to such action by Car Company, may declare the entire unpaid balance of the purchase price of the cars immediately due and payable, without further demand, together with interest thereon then accrued and unpaid at the rate of one and seventy-three hundredths per cent (1.73%) per annum to such date of default; and thereafter interest shall be payable by Vendee upon any portion thereof overdue during such time as it shall remain overdue at the rate of four per cent (4%) per annum; and Car Company shall thereupon be entitled to recover judgment for the entire amount so payable by Vendee with interest thereon at said rate, and to collect such judgment out of any property of Vendee wherever situated. Car Company may, at its election (and, if before sale or before completion of other enforcement of this agreement, all costs and expenses of Car Company incidental to any such default and to the enforcement by Car Company of the provisions hereof, and all sums which shall then have become due and payable by Vendee

hereunder, other than such part of said purchase price as shall have become due only because of a declaration of default under this section as aforesaid, shall have been paid by Vendee, and all other existing events of default shall have been remedied, or provision therefor satisfactory to Car Company shall have been made, then and in every such case the Car Company shall) waive any such event of default and its consequences and rescind and annul any such declaration or termination by notice to Vendee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such cured default had existed and no such declaration or termination had been made; but no such waiver, rescission or annulment shall limit or affect Car Company's right, upon any other default, to declare the unpaid balance of said purchase price due as aforesaid, or extend to or affect any other default, or impair any rights or remedies consequent thereon.

(b) If Vendee shall make default as hereinabove provided, then at any time after such notice of declaration of default and during the continuance of such default Car Company without further notice or demand, except to the extent necessary in order to comply with any such mandatory legal requirements, may take or cause to be taken by its agent or agents immediate possession of the cars, or any of them, and/or any replacements and improvements, and all present and future attachments and accessories thereof, without liability to return to Vendee any sums theretofore paid, and free from all claims whatsoever except as hereinafter in this Section 13 expressly provided, and may remove the same from the use and possession of Vendee and for such purpose may enter upon Vendee's premises where any of the cars may be located, and may use and employ in connection with such removal any available trackage and other facilities or means of Vendee, without process of law; and Vendee shall assemble

and deliver the cars, with all replacements, improvements, equipment, attachments and accessories thereof, at its own cost at such place or places as Car Company may reasonably designate, and in case of such retaking or delivery Car Company shall have the right to store the same upon the premises of Vendee without charge until Car Company shall desire to remove the same therefrom. The assembling and delivery of the cars as hereinbefore provided are of the essence of this agreement between the parties and upon application to any court of equity having jurisdiction in the premises, Car Company shall be entitled to a decree against Vendee requiring specific performance hereof.

(c) If Vendee shall make default as hereinbefore provided, then at any time thereafter during the continuance of such default, and after declaring the entire purchase price immediately due and payable as hereinbefore provided, Car Company with or without retaking possession thereof may sell the cars or any of them, and all replacements thereof, and all improvements, equipment, attachments and accessories placed thereon, free from any and all claims of Vendee, or of any other party claiming by, through or under it at law or in equity, at public or private sale and with or without advertisement as Car Company may determine, all subject to and in compliance with any mandatory legal requirements then in force and applicable to such sale. To the extent permitted by any such legal requirements, any sale or sales hereunder may be held or conducted at such location and at such time or times as Car Company may fix, in one lot and as an entirety or in separate lots, and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as Car Company may determine in compliance with any such mandatory legal requirements, provided that written notice of such sale shall be given to Vendee at least ten (10) days prior thereto, by telegram or registered mail

addressed to Vendee at its office in San Francisco, California, or such other notice, if any, as may be necessary to comply with any such mandatory legal requirements. If such sale shall be a private sale permitted by such legal requirements, it shall be subject to the right of Vendee to purchase or provide a purchaser, within ten (10) days after notice of the proposed sale price, at the same or better price than that offered by the intending purchaser. To the extent not prohibited by any legal requirements then in force and applicable to such sale, Car Company may itself bid for and become the purchaser of the cars, or any of them so offered for sale without accountability to Vendee (except to the extent of surplus money received as hereinafter provided in the last paragraph of this Section 13) and in payment of such purchase price Car Company shall be entitled to the extent aforesaid to have credited on account thereof all sums due to Car Company from Vendee hereunder.

(d) Each and every power or remedy hereby specifically given to Car Company shall be in addition to every other power or remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by Car Company. All such powers and remedies shall be cumulative and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of Car Company in the exercise of any such power or remedy, and no renewal or extension of any payments due hereunder, shall impair any such power or remedy, or shall be construed to be a waiver of any default, or an acquiescence therein.

(e) If Car Company shall exercise any of the powers or remedies conferred upon it hereunder, Vendee shall have

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the right after all sums due hereunder to Car Company shall have been received by it in full, including its proper costs and expenses incident to the collection thereof, to require title to any of the cars, if not previously sold or otherwise disposed of by Car Company pursuant to the provisions hereof, to be transferred and assigned by Car Company to Vendee free from any further liabilities or obligations to Car Company. If after applying all sums of money realized by Car Company under the remedies herein provided, there shall remain any amount due it under the provisions of this agreement, Vendee shall pay the amount of such deficit to Car Company. If after applying as aforesaid all sums realized by Car Company there shall remain a surplus in the possession of Car Company, such surplus shall be paid to Vendee.

14. Vendee shall not assign or transfer this agreement or any of its rights hereunder, or transfer or sublet the said cars or any of them without Car Company's written consent first had and obtained, and shall not cause or permit any of said cars to be pledged or held for any debt or obligation owing by Vendee or to be in any manner encumbered, and shall not suffer the said cars or any of them to pass out of Vendee's control except that Vendee, so long as it shall not be in default under this agreement, shall be entitled to the possession of the cars and to use or permit the use of the same upon lines of railroads constituting the Union Pacific lines or Southern Pacific lines and upon other railroads in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this agreement, and may receive compensation for such use.

The filing by Vendee or by creditors of Vendee of any petition for reorganization (or debt adjustment affecting the obligations of Vendee under this agreement) under

Chapter X or Chapter XI of the Bankruptcy Act or under any amendment or revision thereof or under any other provision of the Bankruptcy Act as now or hereafter existing, or any voluntary assignment or transfer of Vendee's interest in and under this agreement, or any involuntary transfer of such interest by bankruptcy, or by the appointment of a receiver or trustee, or by execution, or by any judicial or administrative decree or process, or otherwise (unless such petition shall be dismissed or such assignment, transfer, decree or process shall within thirty (30) days from the filing or other effective date thereof, be nullified, stayed or otherwise rendered ineffective, or unless any such receiver(s) or trustee(s) shall within thirty (30) days from the date of his or their appointment adopt this agreement pursuant to due authority of the court of his or their appointment) shall be deemed a breach of this agreement and a default hereunder; whereupon Car Company may elect to declare the entire unpaid balance of the purchase price immediately due and payable as hereinbefore provided and may thereupon forthwith retake possession of the cars or any of them and exercise and enforce any and all other remedies as provided by Section 13 hereof.

15. Wherever provision is made in this agreement for any notice or demand to or upon Vendee, or if at any time, Car Company shall desire to give notice to or make any demand upon Vendee, the same may be given or made by depositing a written statement thereof, enclosed in a postpaid envelope in any United States Post Office, directed to Vendee by registered mail at its office, No. 85 Second Street, San Francisco 5, California, or at such other address as Vendee may specify in writing, and an affidavit by any person so depositing such notice in respect of such mailing shall be deemed to be and shall be conclusive evidence of the

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giving and receipt of such notice and of the making of such demand.

16. Any provision of this agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this agreement into an instrument other than an agreement of conditional sale, shall as to such state be ineffective, without modifying as to such state the remaining provisions of this agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by Vendee to the full extent permitted by law.

17. Any extension of time granted by Car Company to Vendee for the payment of any sum due under this agreement shall not be deemed a waiver of the title of Car Company reserved hereunder nor of any of its rights and remedies hereunder or otherwise existing.

18. Vendee at its own expense shall cause this agreement, and the first assignment thereof, to be filed, registered and recorded wherever required for the proper protection of the title of Pullman-Standard Car Manufacturing Company, or its first assignee, to the cars and any replacement or replacements thereof, and of its rights under this agreement; and Vendee shall from time to time do and perform any other act, and will execute, acknowledge, deliver, file, register and record any and all further instruments, required by law or reasonably requested by Pullman-Standard Car Manufacturing Company, or its first assignee, for the

purpose of such protection of its title and rights, or for the purpose of carrying out the intention of this agreement.

19. Vendee shall pay also all costs, charges and expenses, except counsel fees of Pullman-Standard Car Manufacturing Company or of any assignee, incident to the preparation, execution, acknowledgment, filing, registering and recording of this agreement and of any instrument supplemental hereto or amendatory hereof above referred to, excepting only assignments or instruments of transfer subsequent to the first assignment or transfer between Pullman-Standard Car Manufacturing Company and its assignee or assignees.

20. This agreement may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

21. This agreement of conditional sale, together with the specifications hereinabove referred to, constitutes the entire agreement between Vendee and Car Company with respect to the construction, delivery and sale of the cars above referred to. No variation or modification of this agreement, and no waiver of any of its provisions or conditions, shall be valid unless in writing and signed by duly authorized officers of Vendee and Car Company.

IN WITNESS WHEREOF, Car Company and Vendee, respectively, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names and their respective corporate seals to be hereunto affixed, duly attested as of the day and year first above written.

PULLMAN-STANDARD CAR MANUFACTURING COMPANY,

By James B Rosser
Vice President.

[CORPORATE SEAL]

Attest: H G Macdonald
Assistant Secretary.

Signed, sealed and delivered in the presence of:

Jean M Smith

PACIFIC FRUIT EXPRESS COMPANY,

By E B Conrad
President.

[CORPORATE SEAL]

Attest:
A.B. Sherwood
Secretary.

Signed, sealed and delivered in the presence of:

J T McNaul
Fred G. Reilly

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

BE IT REMEMBERED, and I do hereby certify that on this 31st day of March, A. D., 1947, before me, WALTER F. GRAF, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared J. B. ROSSER, Vice President, and H. G. MACDONALD, Assistant Secretary, of Pullman-Standard Car Manufacturing Company, a corporation incorporated and existing under and by the laws of the State of Delaware, and one of the corporations described in and which, as party of the first part, executed the within and foregoing instrument, dated as of October 1, 1946, who are known to me to be Vice President and Assistant Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Assistant Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Assistant Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Assistant Secretary, respectively, and the said H. G. MACDONALD, as Assistant Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Assistant Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Assistant Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Assistant Secretary, respectively, for the uses, purposes and considerations, therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said J. B. ROSSER and H. G. MACDONALD, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said J. B. ROSSER, resides in Scarsdale, N. Y., and is Vice President and an officer, and that he, said H. G. MACDONALD, resides in Bronxville, N. Y., and is Assistant Secretary and an officer, of said Pullman-Standard Car Manufacturing Company, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said J. B. ROSSER and H. G. MACDONALD acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the State of New York.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire March 30, 1947.

I am not a stockholder, director or officer of or in Pullman-Standard Car Manufacturing Company.

Appearers:

James B Rosser
H G Macdonald

Attesting Witnesses:

Jean M Smith

Walter F. Graf
Notary Public in the State of New York
Residing in Kings County
Kings Co. Clk's No. 859, Reg. No. 653-G-7
Certificates Filed in
N. Y. Co. Clk's No. 1305, Reg. No. 948-G-7
Bronx Co. Clk's No. 70, Reg. No. 327-G-7
Queens Co. No. 2475, Reg. No. 355-G-7
Commission Expires March 30, 1947

[NOTARIAL SEAL]

WALTER F. GRAF
NOTARY PUBLIC, STATE OF NEW YORK
Residing in Kings County
Kings Co. Clk's No. 559 Reg. No. 653 G-9
Certificates Filed in
N. Y. Co. Clk's No. 125 Reg. No. 948-G-9
Bronx Co. Clk's No. 10 Reg. No. 327-G-9
Queens Co. Clk's No. 1657 Reg. No. 355-G-9
Commission Expires March 30, 1949

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

BE IT REMEMBERED, and I do hereby certify that on this 21 day of March, A. D., 1947, before me, FRANK E. TILLEY, the undersigned and subscriber, a Notary Public duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared E. B. CONRAD, President, and A. C. SHERWOOD, Secretary, of Pacific Fruit Express Company, a corporation incorporated and existing under and by the laws of the State of Utah and one of the corporations described in and which, as party of the second part, executed the within and foregoing instrument, dated as of October 1, 1946, who are known to me to be the President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such President and Secretary, respectively, and they severally signed and delivered said instrument before me and in the presence of the two subscribing legal witnesses as President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as President and Secretary, respectively, and the said A. C. SHERWOOD, as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses, they severally upon oath acknowledged themselves to be President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument they, as such President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such President and Secretary, respectively, for the uses, purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said E. B. CONRAD and A. C. SHERWOOD, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said E. B. CONRAD, resides in New Rochelle, N. Y., and is President and an officer, and that he, said A. C. SHERWOOD, resides in Paterson, N. J., and is Secretary and an officer of said Pacific Fruit Express Company, the corporation described in and which executed the above instrument, as above designated; that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said E. B. CONRAD and A. C. SHERWOOD acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the State of New York.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire March 30, 1947.

I am not a stockholder, director or officer of or in Pacific Fruit Express Company.

Appearers:
E. B. Conrad
A. C. Sherwood

Frank E. Tilley
Frank E. Tilley
Notary Public, State of New York
Residing in Kings County
Kings County Clerk's No. 210
N. Y. County Clerk's No. 79
Commission Expires March 30, 1947

[NOTARIAL SEAL]

Attesting Witnesses:
J. N. McNaw
Fred G. Reilly

AGREEMENT AND ASSIGNMENT

This Agreement and Assignment, dated as of the 1st day of October, 1946, between PULLMAN-STANDARD CAR MANUFACTURING COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Delaware (hereinafter called "Car Company") and MELLON NATIONAL BANK AND TRUST COMPANY, a corporation organized and existing under and by virtue of the laws of the United States of America (hereinafter designated as "Assignee"), WITNESSETH THAT:

WHEREAS, an agreement of conditional sale (hereinafter referred to as the "agreement of conditional sale") was made between Car Company and Pacific Fruit Express Company as of October 1, 1946, for the construction and sale by Car Company of Five Hundred (500) freight refrigerator cars (hereinafter collectively sometimes called the "cars") and for the delivery thereof by Car Company f. o. b. rails of trunk line railroads, Milwaukee, Wisconsin, all in accordance with and subject to the terms and conditions set forth therein, said agreement of conditional sale being prefixed hereto and made a part hereof; and

WHEREAS, Assignee has offered to purchase from Car Company and Car Company has agreed to assign and transfer to Assignee all of its right, title and interest in, to and under said agreement of conditional sale, including the right to collect and receive all payments to become due and payable thereunder from said Pacific Fruit Express Company;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS THAT:

1. Car Company, in consideration of the amounts hereinafter agreed to be paid by Assignee, does hereby sell, assign, transfer and set over unto Assignee, its successors and assigns, all its right, title and interest in, to and under the

agreement of conditional sale made by Car Company and Pacific Fruit Express Company dated as of October 1, 1946, and all right, title and interest of the Car Company in and to the cars in respect of which the Assignee shall pay to Car Company the purchase price thereof pursuant to Section 4 hereof, together with and including all payments to become due from the Pacific Fruit Express Company under said agreement, provided, however, that this assignment is without any recourse against Car Company for or on account of the failure of the Pacific Fruit Express Company to make any payments provided for in or otherwise to comply with any of the provisions of the said agreement of conditional sale, and provided further that this assignment shall not subject Assignee to or relieve Car Company, or the successor or successors to its manufacturing property or business, from any of the obligations of Car Company to Pacific Fruit Express Company to construct and deliver the cars as in said agreement of conditional sale provided, or to comply with the provisions of Sections 5 and 12 of said agreement of conditional sale, or relieve Pacific Fruit Express Company, so far as the construction, sale and delivery of the cars are concerned under Sections 5 and 6 of said agreement of conditional sale.

2. The rights of Assignee to the entire unpaid purchase price of said Five Hundred (500) freight refrigerator cars, and interest thereon, as well as any other rights as may be so assigned hereunder, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of Car Company, or the successor or successors to its manufacturing properties and business, in respect of the manufacture or delivery of the cars or under Sections 5 and 12 of said agreement of conditional sale, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to

Pacific Fruit Express Company by Car Company, or the successor to its manufacturing business. Any and all such obligations shall be and remain enforceable by the Pacific Fruit Express Company against and only against Car Company and the successor or successors to its manufacturing properties or business, and shall not be enforceable against Assignee or any party or parties in whom title to the cars or any of them or the rights of Car Company under said agreement of conditional sale shall vest by reason of this assignment or transfer or of successive sales, assignments or transfers.

3. Car Company covenants and agrees that it will construct all said cars in full and complete accordance with the specifications and plans, as set forth in said agreement of conditional sale, and will deliver said cars, on completion thereof, to said Pacific Fruit Express Company free of all liens and encumbrances except said agreement of conditional sale, and in accordance with the provisions of said agreement of conditional sale and that, notwithstanding this assignment, it will perform and fully comply with the provisions of Sections 4, 5 and 12 of said agreement of conditional sale. The Car Company further covenants and agrees that it has good and lawful right to sell the cars as aforesaid and that it will warrant and defend the same against the lawful demands of all persons whomsoever based on claims originating prior to the delivery of the cars by the Car Company to Pacific Fruit Express Company; all subject, however, to the provisions of the agreement of conditional sale and the rights of Pacific Fruit Express Company thereunder.

4. Car Company, upon completion and delivery of each lot of said cars, shall execute and deliver to Assignee, for the purpose of effectuating this assignment, one or more bills of sale transferring to Assignee title to all cars in each

such lot concurrently with shipment and delivery thereof to Pacific Fruit Express Company, and shall forward to Assignee, with such executed bills of sale, documents evidencing the delivery of the cars included in each such lot and the acceptance thereof by said Pacific Fruit Express Company, all in accordance with the said agreement of conditional sale.

Upon receipt of each such bill of sale and upon payment by Pacific Fruit Express Company to the Assignee of that portion of the purchase price of the cars covered by such bill of sale which under subdivision (a) of Section 2 of the agreement of conditional sale is payable by Pacific Fruit Express Company upon delivery thereof, Assignee shall pay to the Car Company the sum of $7,277.58 for each and every car so delivered, or (as soon as such final price shall be computed and agreed upon) such greater or lesser sum as shall represent the total purchase price payable with respect to each such car in accordance with Section 1 of said agreement of conditional sale, the total amount to be paid by Assignee for all of said cars being the aggregate purchase price of $3,638,790.00 (unless reduced by payments by Pacific Fruit Express Company, at its election, directly to the Car Company, as permitted by Section 2 of the said agreement of conditional sale) subject to the changes in the purchase price per car provided for in Section 1 of said agreement of conditional sale.

5. Car Company hereby represents and warrants to Assignee and its successors and assigns:

(a) That said agreement of conditional sale was lawfully executed for a valid consideration and that it is a valid existing contract and, according to its terms, binding upon the parties thereto.

(b) That the cars therein provided for are now under construction according to schedule and will be completed

and delivered at the time and in the manner in said agreement of conditional sale provided.

(c) That no payments have been made by Pacific Fruit Express Company to Car Company under said agreement of conditional sale and that, upon completion and delivery of said cars, each and all of the installment payments will become and be due and payable in the amounts and at the times as set forth in said agreement of conditional sale.

6. Without hereby limiting the generality of the foregoing assignment, Car Company hereby authorizes and empowers Assignee to sue for, collect, receive and enforce, in the name of the Assignee, at the expense and liability and for the sole benefit of Assignee, with full power to Assignee to substitute any one or more persons with like power, the payment of all sums and to enforce all action to be taken by Pacific Fruit Express Company under said agreement of conditional sale in respect of said cars.

7. Car Company covenants and agrees with Assignee that in any suit or action brought by Assignee for the recovery of any sum or sums provided in said agreement of conditional sale to be paid by Pacific Fruit Express Company, Car Company will indemnify and keep harmless Assignee from any and all expenses, losses and damages suffered by reason of any defense, setoff, counterclaim or recoupment of Pacific Fruit Express Company arising out of the breach by Car Company of Car Company's obligations to construct and deliver the said cars in accordance with the provisions of said agreement of conditional sale or of Car Company's obligations under Sections 5 and/or 12 of said agreement of conditional sale. Car Company agrees to indemnify, save and keep harmless Assignee from and against any and all royalties, damages, claims, suits, judgments and costs that may arise because of the claim that the use of any design, device, articles or specialty in the construction

of the cars and thereon at the time of their delivery (except any design, device, articles or specialty designated, specified or required by the Pacific Fruit Express Company and not manufactured by Car Company) infringes any patent.

8. It is mutually agreed that the Assignee may assign its rights under the agreement of conditional sale in respect of all or any designated number of said cars, including the right to receive any payments due or to become due to it from the Pacific Fruit Express Company thereunder in respect to such cars. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all of the obligations of the Assignee hereunder.

9. The Car Company covenants and agrees that it will, from time to time and at all times, at the request of the Assignee, or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises, to give effect to the provisions herein set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

10. The Car Company covenants and agrees that, at the time of delivery of each car to Pacific Fruit Express Company, Car Company will fasten upon each side of each car a metal plate bearing the following words in letters not less than one inch in height: "Mellon National Bank and Trust Company, Owner, by assignment from Pullman-Standard Car Manufacturing Company, Vendor." or, if such metal plates are not reasonably obtainable, such words shall be otherwise plainly, distinctly, permanently and conspicuously marked upon each side of each car.

11. This agreement and assignment may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

IN WITNESS WHEREOF, Car Company and Assignee, respectively, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names and their respective corporate seals to be hereunto affixed, duly attested, as of the day and year first above written.

PULLMAN-STANDARD CAR MANUFACTURING COMPANY,

[CORPORATE SEAL]

By James B Rosser
Vice President.

Attest: A S Macdonald
Assistant Secretary.

Signed, sealed and delivered in the presence of:

Geo J Lemmish

MELLON NATIONAL BANK AND TRUST COMPANY,

[CORPORATE SEAL]

By J R Caymmon
Vice President.

Attest: E D Hayes
Secretary.

Signed, sealed and delivered in the presence of:

J H Steamin

A W Johnson

STATE OF NEW YORK, } ss.:
COUNTY OF NEW YORK, }

BE IT REMEMBERED, and I do hereby certify that on this 5th day of April, A. D., 1947, before me, WALTER F. GRAF, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared J. B. ROSSER, Vice President, and H. G. MACDONALD, Assistant Secretary, of Pullman-Standard Car Manufacturing Company, a corporation incorporated and existing under and by the laws of the State of Delaware and one of the corporations described in and which executed the within and foregoing instrument, dated as of October 1, 1946, who are known to me to be Vice President and Assistant Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Assistant Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Assistant Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Assistant Secretary, respectively, and the said H. G. MACDONALD, as Assistant Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Assistant Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Assistant Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Assistant Secretary, respectively, for the uses and purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said J. B. ROSSER and H. G. MACDONALD, being by me severally and duly sworn according to law, did each for himself depose and upon his oath say that he, said J. B. ROSSER, resides in Scarsdale, N. Y., and is Vice President and an officer, and that he, said H. G. MACDONALD, resides in Bronxville, N. Y., and is Assistant Secretary and an officer, of said Pullman-Standard Car Manufacturing Company, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said J. B. ROSSER and H. G. MACDONALD acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the State of New York.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire March 30, 1947. 1949.

I am not a stockholder, director or officer of or in Pullman-Standard Car Manufacturing Company.

Appearers:

James B Rosser
H G Macdonald

Attesting Witnesses:

Walter F. Graf
Notary Public in the State of New York
Residing in Kings County
Kings Co. Clk's No. 859, Reg. No. 653-G-7
Certificates Filed In
N. Y. Co. Clk's No. 1305, Reg. No. 948-G-7
Bronx Co. Clk's No. 70, Reg. No. 327-G-7
Queens Co. No. 2475, Reg. No. 355-G-7
Commission Expires March 30, 1947

[NOTARIAL SEAL.]
WALTER F. GRAF
NOTARY PUBLIC, STATE OF NEW YORK
Residing in Kings County
Kings Co. Clk's No. 559 Reg. No. 653-G-9
Certificates Filed in
N. Y. Co. Clk's No. 125 Reg. No. 948-G-9
Bronx Co. Clk's No. 10 Reg. No. 327-G-9
Queens Co. Clk's No. 1657 Reg. No. 355-G-9
Commission Expires March 30, 1949

COMMONWEALTH OF PENNSYLVANIA, } ss.:
COUNTY OF ALLEGHENY, }

BE IT REMEMBERED, and I do hereby certify that on this 31st day of March, A. D., 1947, before me, ROBERT KANE, the undersigned and subscriber, a Notary Public, duly commissioned, qualified and acting in and for the state and county aforesaid, personally came and appeared J. S. RAYMOND, Vice President, and E. D. HAYES, Secretary, of Mellon National Bank and Trust Company, a corporation incorporated and existing under and by the laws of the United States of America and one of the corporations described in and which executed the within and foregoing instrument, dated as of October 1, 1946, who are known to me to be Vice President and Secretary, respectively, of said corporation, and with each of whom I am personally acquainted, and who are to me personally known and personally known to me to be the same and identical persons whose names are signed and subscribed to said instrument as having executed the same, and who executed the same, as such Vice President and Secretary, respectively, and they severally signed and delivered said instrument before me, and in the presence of the two subscribing legal witnesses as Vice President and Secretary, respectively, of said corporation, to be the act and deed of said corporation by them as Vice President and Secretary, respectively, and the said E. D. HAYES, as Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, before me and in the presence of said witnesses they severally upon oath acknowledged themselves to be Vice President and Secretary, respectively, of said corporation, and severally acknowledged said instrument to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and further severally acknowledged to me the execution of said instrument, that such corporation executed the same, and that being informed of the contents of the said instrument, they, as such Vice President and Secretary, respectively, being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned on behalf of and for and as the act of said corporation by signing the name of the corporation by themselves as such officers, respectively, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act and deed as such Vice President and Secretary, respectively, for the uses, purposes and considerations therein set forth and expressed, and they severally on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

And at the same time the said J. S. RAYMOND and E. D. HAYES, being by me severally and duly sworn according to law; did each for himself depose and upon his oath say that he, said J. S. RAYMOND, resides in Pittsburgh, Pa., and is Vice President and an officer, and that he, said E. D. HAYES, resides in Mt. Lebanon Township, Allegheny County, Pa., and is Secretary and an officer, of said Mellon National Bank and Trust Company, the corporation described in and which executed the above instrument, as above designated, that he knows and is acquainted with the seal of said corporation; that the seal affixed to said instrument is such corporate seal of said corporation; that it was so affixed and said instrument was signed, sealed and executed in behalf of said corporation by resolution, order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures, and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned; and said J. S. RAYMOND and E. D. HAYES acknowledged to me said instrument to be the free act and deed of said corporation and that said corporation executed the same.

And I further certify that the foregoing instrument was executed and acknowledged according to and in conformity with the laws of the Commonwealth of Pennsylvania.

Given under, and in witness and faith whereof I have hereunto set, my hand and official seal the day and year first above written.

My commission as notary public will expire January 24, 1951.

I am not a stockholder, director or officer of or in Mellon National Bank and Trust Company.

Appearers:

J S Raymond
E D Hayes

Robert Kane
Robert Kane, Notary Public
My Commission Expires January 24, 1951

[NOTARIAL SEAL]

Attesting Witnesses:

J H Pitcairn
J J Robinson

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 21st day of
APRIL A. D. 1947 at 10:00
o'clock A.M. and recorded in Vol.
39 of RAILROAD MORTGAGES
on pages 450-467 INCL.
[illegible]
Secretary of State

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Satisfaction and Bill of Sale
The First National Bank of the City of New York
To
Northern Pacific Railway Company
Dated, May 15, 1947

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, That

WHEREAS, by a certain Equipment Lease dated May 1, 1937, THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK (therein called the "Trustee"), as Trustee, and hereinafter referred to as party of the first part, under an Agreement dated May 1, 1937, creating an equipment trust designated NORTHERN PACIFIC RAILWAY EQUIPMENT TRUST of 1937 between Northwestern Improvement Company, said The First National Bank of the City of New York and the Northern Pacific Railway Company, did lease, upon certain terms and conditions as set forth in said Equipment Lease, to said NORTHERN PACIFIC RAILWAY COMPANY (therein called the "Railway Company"), and hereinafter referred to as party of the second part, certain railway equipment described in said Equipment Lease, namely:

GONDOLA CARS, Nos. 51500-51749, inclusive, total 250 cars;
GONDOLA CARS, Nos. 52000-52749, inclusive, total 750 cars;
FLAT CARS, Nos. 60800-61299, inclusive, total 500 cars;
BOX CARS, Nos. 9500-9999, inclusive, total 500 cars;
LOCOMOTIVES, Nos. 5112-5120, inclusive, total 9 locomotives;
LOCOMOTIVES, Nos. 2660-2667, inclusive, total 8 locomotives;

WHEREAS, by supplemental agreements between the party of the first part and party of the second part dated as listed immediately below in Column I and pursuant to paragraph Fourth of said lease of railroad equipment dated the first day of May, 1937, the party of the first part let and leased to the party of the second part the equipment described in Column II below replacing equipment, destroyed through accident or fire, as listed in Column III below, to-wit:-

I Date of Supplemental Agreement	II Equipment Leased	III Equipment Replaced
August 10, 1939	Box Car No. 9487	Flat Car No. 61071
December 7, 1940	Box Car No. 9488	Box Car No. 9935
October 7, 1941	Box Car No. 9489	Box Car No. 9926
September 25, 1942	Box Car No. 9495	Box Car No. 9889
May 20, 1943	Box Car No. 9492	Gondola Car No. 52517
April 2, 1945	Box Car No. 9499	Box Car No. 9749

WHEREAS, by supplemental agreement between the party of the first part and the party of the second part dated the first day of October, 1945, the party of the first part consented to the changing of the numbers of all of the flat cars, but one, leased under and covered by said Northern Pacific Railway Equipment Trust of 1937, from 60800-61299, inclusive, to 63250-63748, inclusive, being 499 flat cars. One of the said 500 flat cars covered by said Equipment Trust of 1937, namely, Car No. 61071, was omitted and not renumbered for the reason that it had been destroyed.

WHEREAS, by paragraph Second of said Equipment Lease, it was provided that when said party of the second part should make all the payments of rental therein agreed by it to be made to the party of the first part, and the terms of said Equipment Lease should have been on its part fully performed by the party of the second part, the title to all of the leased equipment and to all replacements thereunder should vest in the party of the second part, and that thereupon the party of the first part should execute for record in public offices such instrument or instruments in writing as reasonably should be requested by the party of the second part in order then to make clear upon the public records the title of the party of the second part to all of the leased equipment and replacements thereof under the laws of any jurisdiction; and

WHEREAS, said Equipment Lease was filed for record in the office of the Secretary of State, State of Wisconsin, on June 5, 1937, and recorded in Volume 32 of Railroad Mortgages, etc., pages 422 et seq; and filed for record in the office of the Secretary of State, State of Minnesota, on June 4, 1937, and recorded in Book 21 of Railroad Records, page 23; and filed for record in the office of the Register of Deeds of Ramsey County, Minnesota, on June 4, 1937, and recorded in Book 5 of Leases, page 39; and filed for record in the office of the Secretary of State, State of North Dakota, on June 7, 1937, and recorded in Volume 4 of Railroad, Telegraph & Telephone, page 116; and filed for record in the office of the Secretary of State, State of Montana, on June 7, 1937, and recorded in Volume 9 Mortgages, page 200 et seque; and filed for record in the office of the Secretary of State, State of Idaho, on June 22, 1937, and recorded in Book 2 of Railroad Equipment, on pages 164 to 179; and filed for record in the office of the Register of Deeds of King County,

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Washington, on May 28, 1937, and recorded in Volume 1442 of Mortgages, page 131; and filed for record in the office of the Register of Deeds of Multnomah County, Oregon, on June 7, 1937, and recorded in Book 410 of Mortgages, page 523; and

WHEREAS, said supplemental agreement of August 10, 1939, was filed for record in the office of the Secretary of State, State of Wisconsin, on August 28, 1939, and recorded in Volume 34 of Railroad Mortgages, pages 285-288, inclusive; and filed for record in the office of the Secretary of State, State of Minnesota, on September 11, 1939, and recorded in Book 22 of General Railroad Records, page 75; and filed for record in the office of the Register of Deeds of Ramsey County, Minnesota, on September 20, 1939, and recorded in Book 6 of Leases, page 63; and filed for record in the office of the Secretary of State, State of North Dakota, on August 28, 1939, and recorded in Volume 4 of Railroad, Telegraph & Telephone, page 321; and filed for record in the office of the Secretary of State, State of Montana, on August 29, 1939, and recorded in Volume 10 of Mortgages, page 259 et seque; and filed for record in the office of the Secretary of State, State of Idaho, on August 28, 1939, and recorded in Book 2 of Railway Equipment, on pages 310-311-312; and filed for record in the office of the Register of Deeds of King County, Washington, on September 11, 1939, and recorded in Volume 1572 of Mortgages, page 136; and filed for record in the office of the Register of Deeds of Multnomah County, Oregon, on August 29, 1939, and recorded in Book 513 of Mortgages, page 491; and filed for record in the office of the Secretary of State, State of Illinois, on September 15, 1939, and recorded in Book 68 of Railroad Records, pages 104 and 105; and

WHEREAS, said supplemental agreement of December 7, 1940, was filed for record in the office of the Secretary of State, State of Wisconsin, on December 26, 1940, and recorded in Volume 36 of Railroad Mortgages, pages 214-216, inclusive; and filed for record in the office of the Secretary of State, State of Minnesota, on January 14, 1941, and recorded in Book 24 of Railroad Records, page 16; and filed for record in the office of the Register of Deeds of Ramsey County, Minnesota, on January 2, 1941, and recorded in Book 7 of Leases, page 13; and filed for record in the office of the Secretary of State, State of North Dakota, on December 26, 1940, and recorded in Volume 5 of Railroad, Telegraph & Telephone, page 128; and filed for record in the office of

the Secretary of State, State of Montana, on December 30, 1940, and recorded in Volume 11 of Mortgages, page 292 et seque; and filed for record in the office of the Secretary of State, State of Idaho, on December 27, 1940, and recorded in Book 2 of Railway Equipment, pages 498-500, inclusive; and filed for record in the office of the Register of Deeds of King County, Washington, on December 30, 1940, and recorded in Volume 1667 of Mortgages, page 427; and filed for record in the office of the Register of Deeds of Multnomah County, Oregon, on January 8, 1941, and recorded in Book 502 of Deeds, page 588; and filed for record in the office of the Register of Deeds of Multnomah County Oregon, on January 14, 1941, and recorded in Book 583 of Mortgages, page 115; and filed for record in the office of the Secretary of State, State of Illinois, on January 6, 1941, and recorded in Book 70 of Railroad Records, pages 70 and 71; and

WHEREAS, said supplemental agreement of October 7, 1941, was filed for record in the office of the Secretary of State, State of Wisconsin, on November 8, 1941, and recorded in Volume 35 of Railroad Mortgages, pages 521-523, inclusive; and filed for record in the office of the Secretary of State, State of Minnesota, on November 22, 1941, and recorded in Book 25 of General Railroad Records, page 38; and filed for record in the office of the Register of Deeds of Ramsey County, Minnesota, on November 10, 1941, and recorded in Book 7 of Leases, page 149; and filed for record in the office of the Secretary of State, State of North Dakota, on November 8, 1941, and recorded in Volume 5 of Railroad, Telegraph & Telephone, page 409; and filed for record in the office of the Secretary of State, State of Montana, on November 13, 1941, and recorded in Volume 13 of Mortgages, page 42 et seque; and filed for record in the office of the Secretary of State, State of Idaho, on November 10, 1941, and recorded in Book 3 of Railway Equipment, pages 159 and 160; and filed for record in the office of the Register of Deeds of King County, Washington, on November 10, 1941, and recorded in Volume 1743 of Mortgages, page 70; and filed for record in the office of the Register of Deeds of Multnomah County, Oregon, on November 18, 1941, and recorded in Book 633 of Mortgages, page 271; and filed for record in the office of the Secretary of State, State of Illinois, on November 21, 1941, and recorded in Book 71 of Railroad Records, pages 435-437, inclusive; and

WHEREAS, said supplemental agreement of September 25, 1942, was filed for record in the office of the Secretary of State, State of Wisconsin, on October 20, 1942, and recorded in Volume 35 of Railroad Mortgages, pages 630-632, inclusive; and filed for record in the office of the Secretary of State, State of Minnesota, on October 29, 1942, and recorded in Book 26 of Railroad Records & Liens, page 20; and filed for record in the office of the Register of Deeds of Ramsey County, Minnesota, on October 22, 1942, and recorded in Book 7 of Leases, page 381; and filed for record in the office of the Secretary of State, State of North Dakota, on October 20, 1942, and recorded in Volume 6 of Railroad, Telegraph & Telephone, page 137; and filed for record in the office of the Secretary of State, State of Montana, on October 26, 1942, and recorded in Volume 13 of Mortgages, page 170 et seque; and filed for record in the office of the Secretary of State, State of Idaho, on October 23, 1942, and recorded in Book 3 of Railway Equipment, pages 282-283-284; and filed for record in the office of the Register of Deeds of King County, Washington, on October 22, 1942, and recorded in Volume 1822 of Mortgages, page 466; and filed for record in the office of the Register of Deeds of Multnomah County, Oregon, on October 29, 1942, and recorded in Book 698 of Mortgages, page 31; and filed for record in the office of the Secretary of State, State of Illinois, on October 28, 1942, and recorded in Book 72 of Railroad Records, pages 324-326, inclusive; and

WHEREAS, said supplemental agreement of May 20, 1943, was filed for record in the office of the Secretary of State, State of Montana, on June 4, 1943, and recorded in Volume 14 of Mortgages, page 142 et seque; and filed for record in the office of the Secretary of State, State of Wisconsin, on June 3, 1943, and recorded in Volume 36 of Railroad Mortgages, pages 453-455, inclusive; and filed for record in the office of the Register of Deeds of Ramsey County, Minnesota, on June 4, 1943, and recorded in Book 7 of Leases, page 445; and filed for record in the office of the Secretary of State, State of North Dakota, on June 3, 1943, and recorded in Volume 6 of Railroad, Telegraph & Telephone, page 282; and filed for record in the office of the Secretary of State, State of Minnesota, on June 11, 1943, and recorded in Book 26 of General Railroad Records & Liens, page 84; and filed for record in the

office of the Secretary of State, State of Idaho, on June 7, 1943, and recorded in Book 3 of Railway Equipment, pages 404 and 405; and filed for record in the office of the Secretary of State, State of Illinois on June 17, 1943, and recorded in Book 72 of Railroad Records, pages 422-424, inclusive; and filed for record in the office of the Register of Deeds of Multnomah County, Oregon, on June 15, 1943, and recorded in Book 719 of Mortgages, page 19; and filed for record in the office of the Register of Deeds of King County, Washington, on June 7, 1943, and recorded in Volume 1867 of Mortgages, page 585; and

WHEREAS, said supplemental agreement of April 2, 1945, was filed for record in the office of the Secretary of State, State of Wisconsin, on April 21, 1945, and recorded in Volume 38 of Railroad Mortgages, pages 185-187; and filed for record in the office of the Secretary of State, State of Illinois, on May 8, 1945, and recorded in Book 75 of Railroad Records, pages 163-166, inclusive; and filed for record in the office of the Secretary of State, State of Minnesota, on May 9, 1945, and recorded in Book 29 of General Railroad Records & Liens, page 1; and filed for record in the office of the Register of Deeds of Ramsey County, Minnesota, on April 21, 1945, and recorded in Book 8 of Leases, page 25; and filed for record in the office of the Secretary of State, State of North Dakota, on April 20, 1945, and recorded in Volume 7 of Railroad, Telegraph & Telephone, page 497; and filed for record in the office of the Secretary of State, State of Montana, on April 21, 1945, and recorded in Volume 15 of Mortgages, page 197 et seque; and filed for record in the office of the Secretary of State, State of Idaho, on April 24, 1945, and recorded on Film Roll No. 2; and filed for record in the office of the Register of Deeds of Multnomah County, Oregon on May 4, 1945, and recorded in Book 826 of Mortgages, page 6; and filed for record in the Office of the Register of Deeds of King County, Washington, on April 25, 1945, and recorded in Volume 2009 of Mortgages, page 450; and

WHEREAS, said supplemental agreement of October 1, 1945, was filed for record in the office of the Secretary of State, State of Wisconsin, on October 15, 1945, and recorded in Volume 38 of Railroad Mortgages, pages 276-277; and filed for record in the office of the Secretary of State, State of Minnesota, on October 18, 1945, and recorded in

GONDOLA CARS;	Nos.	51500-51749;	inclusive; total	250	cars;
GONDOLA CARS,	Nos.	52000-52516,	inclusive; total	517	cars;
GONDOLA CARS,	Nos.	52518-52749,	inclusive; total	232	cars;
FLAT CARS,	Nos.	63250-63748,	inclusive; total	499	cars;
BOX CARS;	Nos.	9500-9748;	inclusive; total	249	cars;
BOX CARS,	Nos.	9750-9888;	inclusive; total	139	cars;
BOX CARS,	Nos.	9890-9925;	inclusive; total	36	cars;
BOX CARS,	Nos.	9927-9934,	inclusive; total	8	cars;
BOX CARS,	Nos.	9936-9999,	inclusive, total	64	cars;
BOX CAR;	No.	9487;	total	1	car;
BOX CAR,	No.	9488;	total	1	car;
BOX CAR;	No.	9489;	total	1	car;
BOX CAR,	No.	9492;	total	1	car;
BOX CAR,	No.	9495,	total	1	car;
BOX CAR,	No.	9499,	total	1	car;
LOCOMOTIVES,	Nos.	5112-5120;	inclusive, total	9	locomotives;
LOCOMOTIVES,	Nos.	2660-2667,	inclusive, total	8	locomotives;

together with any and all appliances with which any of the equipment was provided, or any replacement of said appliances.

TO HAVE AND TO HOLD THE same unto the party of the second part, its successors and assigns forever.

This Bill of Sale is executed by The First National Bank of the City of New York, party of the first part, without covenant or warranty, express or implied, and without recourse to The First National Bank of the City of New York in any event.

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Book 29 of General Railroad Records & Liens, page 38; and filed for record in the office of the Register of Deeds, of Ramsey County, Minnesota, on October 23, 1945, and recorded in Book 238 of Misc., page 509; and filed for record in the office of the Secretary of State, State of North Dakota, on October 26, 1945, and recorded in Volume 8 of Railroad, Telegraph & Telephone, page 237; and filed for record in the office of the Secretary of State, State of Montana, on October 31, 1945, and recorded in Volume 16 of Mortgages, pages 123 and 124; and filed for record in the office of the Secretary of State, State of Idaho, on October 15, 1945, and recorded on Film Roll No. 3; and filed for record in the office of the Register of Deeds of Multnomah County, Oregon, on December 21, 1945, and recorded in Book 862 of Mortgages, page 376; and filed for record in the office of the Register of Deeds of King County, Washington, on October 30, 1945, and recorded in Volume 2045 of Mortgages, page 381; and

WHEREAS, the party of the second part has fully paid all of the rent and all other payments which it agreed to make in accordance with the provisions of said Equipment Lease, and has performed all of the covenants, obligations and agreements contained in said Equipment Lease and said Agreement;

NOW, THEREFORE, said The First National Bank of the City of New York, as Trustee, party of the first part, in pursuance of the terms and conditions of said Equipment Lease and of said Agreement above referred to, and in consideration of the sum of One Dollar ($1) to it in hand paid by the Northern Pacific Railway Company, party of the second part, the receipt of which is hereby acknowledged, has bargained and sold and by these presents does bargain and sell, grant and convey unto the party of the second part, its successors and assigns, all of its right, title and interest, as Trustee, in and to the railway equipment referred to in said Equipment Lease and described as follows, to-wit:

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

I, WILLIAM T. LOVELAND, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 15th day of May A.D. 1947, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument Henry S. Sturgis and J. K. MICKLE each to me personally known and known to me to be respectively Vice-President and Assistant Cashier of The First National Bank of the City of New York, the corporation described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice-President and Assistant Cashier respectively in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said Henry S. Sturgis and J. K. MICKLE being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said Henry S. Sturgis resides in Cedarhurst in the State of New York and that the said J. K. MICKLE resides in New York City in the State of New York; that said Henry S. Sturgis is Vice-President and said J. K. MICKLE is Assistant Cashier of The First National Bank of the City of New York, the corporation described in and which executed the within and foregoing instrument in writing; that they, the said Henry S. Sturgis and J. K. MICKLE know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and

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IN WITNESS WHEREOF, The First National Bank of the City of New York, as Trustee under the aforesaid Agreement dated May 1, 1937, has caused these presents to be signed in its behalf and its corporate seal to be hereunto affixed this 15th day of May 1947

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, Trustee,

By Henry S. Sturgis
Vice President.

Attest:

J. K. Mickle
Assistant Cashier.

Signed, sealed and delivered, as to the First National Bank of the City of New York, in the presence of:

J. A. Dooley

M. Walter

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authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice-President and Assistant Cashier in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged said instrument to be the free act and deed of said corporation, and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of New York, State of New York, this the day and year of this my certificate first above written.

William T. Loveland
Notary Public

WILLIAM T. LOVELAND
NOTARY PUBLIC IN THE STATE OF NEW YORK
RESIDING IN NEW YORK COUNTY
N. Y. CO. CLERK'S NO. 212, REG. NO. 300-L-8
COMMISSION EXPIRES MARCH 30, 1948

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 20TH day of
MAY A. D. 1947 at 9:00
o'clock A.M. and recorded in Vol.
39 of RAILROAD MORTGAGES
on pages 468 & 5 Exa.
Assistant Secretary of State

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COUNTERPART
No. 5 OF 20

CONDITIONAL SALE AGREEMENT

BETWEEN

GENERAL MOTORS CORPORATION

(ELECTRO-MOTIVE DIVISION)

AND

GREAT NORTHERN RAILWAY COMPANY

DATED AS OF JUNE 16, 1947

THIS AGREEMENT, made as of June 16, 1947, by and between GENERAL MOTORS CORPORATION, a corporation organized and existing under and by virtue of the laws of the State of Delaware (Electro-Motive Division), hereinafter sometimes called "Vendor" and sometimes called "General Motors", party of the first part, and GREAT NORTHERN RAILWAY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Minnesota, hereinafter called "Vendee", party of the second part,

WITNESSETH:

That in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. General Motors will construct, sell and deliver eleven (11) Diesel locomotives as hereinafter described and collectively sometimes called "locomotives" and Vendee will accept and purchase said locomotives on completion thereof, subject to the terms and conditions of this agreement. General Motors will deliver said locomotives ready for service and free of all liens, encumbrances and claims of any nature by or in favor of any other person or party and subject only to the reservation of title thereto by General Motors in accordance with the provisions hereof. Said locomotives shall be delivered, from time to time as completed, to Vendee f. o. b. the tracks of the Vendee at Fridley, Minnesota, freight charges prepaid, but Vendee shall assume all risk of loss or damage incident to transportation of the locomotives from General Motors' plant at McCook, Illinois, to said point of delivery.

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Said locomotives shall be constructed in accordance with specifications prepared by General Motors and modifications thereof mutually agreed upon from time to time. A description and number of locomotives and the estimated price per locomotive are as follows:

Number of Locomotives	Description	Vendee's Serial Numbers
2	1500-Horsepower Diesel Passenger Locomotives, Vendee's purchase order No. 43722, General Motors' order No. E-802, as described and warranted in General Motors' Specification 8002, dated July 10, 1945, as supplemented May 10, 1947, to be delivered in October, 1947, at an estimated price per locomotive of $149,196.00	228 and 229
1	3000-Horsepower Diesel Passenger Locomotive, Vendee's purchase order No. 43720, General Motors' order No. E-800, consisting of one lead unit as described and warranted in General Motors' Specification 8002, dated July 10, 1945, and one booster unit as described and warranted in General Motors' Specification 8003, dated July 20, 1945, as supplemented May 7, 1947, to be delivered	

	in October, 1947, at an estimated price of $280,429.00	260
1	3000-Horsepower Diesel Freight Locomotive, Vendee's purchase order No. 43718, General Motors' order No. E-798, as described and warranted in General Motors' Specification 8002, dated July 10, 1945, as supplemented May 5, 1947, to be delivered in October, 1947, at an estimated price of $296,126.00	259
3	2000-Horsepower Diesel Passenger Locomotives, Vendee's purchase order No. 43721, General Motors' order No. E-801, as described and warranted in General Motors' Specification 8005, dated June 1, 1946, as supplemented May 8, 1947, to be delivered in August, 1947, at an estimated price per locomotive of $200,192.00	510 to 512 both inclusive
4	4500-Horsepower Diesel Passenger Locomotives, Vendee's purchase order No. 16396, General Motors' order No. E-819, each locomotive consisting of two lead units as described and warranted in General Motors' Specification 8002, dated July 10, 1945, and one booster unit	

	as described and warranted in General Motors' Specification 8003, dated July 20, 1945, as supplemented May 9, 1947, to be delivered in November, 1947, at an estimated price per locomotive of $449,586.00	350 to 353 both inclusive

The total estimated price of all locomotives covered by this agreement is the sum of $3,273,867.00.

General Motors will give the Vendee full opportunity to inspect said locomotives during the construction thereof at its plant. On completion of each locomotive the Vendee will arrange for final inspection thereof and will have its inspector execute in quadruplicate the usual form of certificate of inspection covering all locomotives found to be completed in accordance with the plans and specifications. Each such certificate with respect to the locomotives covered thereby shall be final and conclusive evidence that such locomotives conform in workmanship, material and construction, and in all other respects, to the requirements and provisions of this agreement. The Vendee will arrange also for execution of certificates of acceptance of said locomotives by a duly authorized agent upon arrival thereof at the designated place of delivery.

2. The Vendee will pay the Vendor for said locomotives, completed and delivered as aforesaid, at the office of the Vendor's treasurer at Chicago, Illinois, or at any bank or trust company, either in the cities of Chicago or New York or elsewhere, which the Vendor in writing may direct, in the following manner:

(a) Upon delivery and acceptance of each locomotive and receipt of invoice therefor, an amount equal to the excess of the purchase price thereof, as finally determined, over the amount shown below for each such locomotive:

1500-Horsepower Diesel Passenger Locomotives, each	$113,000.00
3000-Horsepower Diesel Passenger Locomotive	211,000.00
3000-Horsepower Diesel Passenger Locomotive	223,000.00
2000-Horsepower Diesel Passenger Locomotives, each	150,666.67
4500-Horsepower Diesel Passenger Locomotives, each	337,000.00

(b) At three-month intervals, interest on the remaining $2,460,000.00 of the total estimated price from June 16, 1947, to June 16, 1949, at the annual rate to be determined as provided in Section 3 hereof.

(c) The remaining $2,460,000.00 of the total estimated price in sixty (60) equal monthly installments of $41,000.00 each, except as may otherwise be provided herein, on the 16th day of each month commencing July, 1949, excepting only that the final monthly payment of principal shall be such as to extinguish the debt then remaining after application of all previous payments credited thereto, together with interest then accrued and unpaid from the 16th day of the previous calendar month on the diminishing unpaid balances of said sum of $2,460,000.00, at the annual rate to be determined as provided in Section 3 hereof, until said sum of $2,460,000.00, together with such interest, shall have been paid in full.

The term "interest" as used in this agreement means simple interest as distinguished from compound interest.

The Vendee shall have the right, on any monthly installment payment date, to make (a) payment of the entire balance of the purchase price of the equipment then unpaid hereunder, with interest accrued to such date of payment, or (b) partial payment of such unpaid purchase price in the amount of $10,000, or any multiple thereof, and such partial payment, with suitable allowance for interest, will be credited by the Vendor toward payment in inverse order of latest installment payment or payments to be made by the Vendee hereunder.

All payments by the Vendee hereunder shall be free of expense to the Vendor for collection or other charges, and no deductions shall be made therefrom of the amount of any Federal, State or other taxes, assessments or governmental charges hereafter levied or imposed upon said locomotives, or upon the selling, shipment, delivery, or use thereof, and the Vendee hereby specifically agrees to pay to the Vendor, in addition to the above mentioned purchase price of the locomotives, all sales taxes, or like taxes or charges which may be assessed, levied or imposed upon or with respect to the sale or delivery to or use by the Vendee of said locomotives, or any thereof, and which the Vendor may be legally required to pay to any State or municipality or to the United States or other government. All payments provided for in this agreement shall be made by the Vendee to the Vendor in such currency of the United States of America as at the time of payment shall be legal tender for payment of public and private debts.

3. With reasonable promptness after the execution of this agreement, the Vendee will procure a purchaser of the interest of the Vendor in this agreement and of the locomotives described herein in accordance with the terms of an assignment in the form marked "Exhibit 1" attached hereto, and hereby made a part hereof. Upon the request of such purchaser the Vendor will forthwith execute said assignment which shall appropriately describe the purchaser and shall have inserted therein the annual rate of interest, agreed upon between the purchaser and the Vendee, which the unpaid balance of the purchase price under paragraphs (b) and (c) of Section 2 hereof shall bear.

All or any of the rights of such purchaser under this agreement, including the right to receive the payments herein provided to be made by the Vendee under paragraphs (b) and (c) of Section 2, may be assigned by the purchaser and reassigned by any Assignee at any time and from time to time. Neither the original nor any subsequent assignment shall subject any Assignee to or relieve General Motors from any of the obligations of General Motors as to the construction or delivery of the locomotives or as to any warranty or indemnity with respect thereto contained in Sections 1 and 4 hereof, or relieve the Vendee from its obligation to General Motors under Section 4 and the last paragraph of Section 2 hereof, except that the Assignee shall be obligated to execute necessary and proper instruments of transfer as and when the Vendee shall be entitled thereto pursuant to the provisions of Section 6 hereof.

In the event of any such assignment the Assignor shall give written notice to Vendee, together with a counterpart or copy of such assignment, stating the identity and post

office address of the Assignee, and such Assignee shall by virtue of such assignment acquire all of the Vendor's right, title and interest in and to the locomotives described herein and each and every part thereof, subject only to such reservations as may be contained in such assignment. From and after the receipt by Vendee of the notification of any such assignment, all payments thereafter to be made by Vendee hereunder shall, to the extent so assigned, be made to the Assignee.

Upon assignment of this agreement as hereinbefore provided, the rights of such Assignee to the entire unpaid purchase price or such part thereof as may be assigned, and interest thereon, as well as any other rights that may be so assigned hereunder, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of General Motors in respect of the manufacture or delivery of the locomotives described herein or in respect of any warranty or indemnity in Sections 1 and 4 hereof, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee by General Motors. Any and all such obligations howsoever arising, shall be and remain enforceable by the Vendee against and only against General Motors and shall not be enforceable against any party or parties in whom title to the locomotives or any thereof, or the rights of Vendor hereunder, shall vest by reason of any sale, assignment or transfer, or successive sales, assignments or transfers.

The term "Vendor" whenever used in this agreement means, before any assignment of the rights of the Vendor hereunder as hereinbefore provided in this Section 3, Gen-

eral Motors Corporation, and after such assignment, the assignee or assignees for the time being of all of the rights hereunder, or in the event of any assignment of any less than all of the rights hereunder, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also the assignor as regards any rights hereunder retained and excluded from such assignment; and the term "General Motors" whenever used in this agreement means, both before and after any such assignment, the party hereto of the first part, and any successor or successors for the time being to its manufacturing property and business.

4. General Motors agrees to indemnify and save the Vendee harmless from any and all liabilities, damages, claims, suits, judgments and costs that may arise from the use of any patented article, other than those specified or required by the Vendee and that are not manufactured by General Motors, that may be a part of the locomotives when delivered, and the Vendee agrees to indemnify and save General Motors harmless from any and all liabilities, damages, claims, suits, judgments and costs that may arise from the use of any patented article specified or required by the Vendee and not manufactured by General Motors that may be used as a part of the locomotives.

Immediate notice in writing shall be given by either party to the other of any claim of patent infringement presented to such party with respect to the locomotives, and the party responsible for such infringement as above provided, shall promptly undertake and assume the defense thereof.

5. The Vendee shall pay promptly all taxes, assessments and governmental charges which from time to time may be imposed upon the locomotives described herein, or the earnings arising therefrom, or the operation thereof, or upon the Vendor by reason of its ownership thereof, by any government of any country, state or political subdivision thereof, in which said locomotives may be located, or which shall have jurisdiction over said locomotives or any part thereof, and the Vendee agrees at all times to keep said locomotives free and clear of all tax liens and incumbrances; provided, however, that the Vendee shall not be required to pay any tax, assessment or other Governmental charge, the validity of which the Vendee shall contest in good faith and by appropriate legal proceedings until such contest shall have been decided, unless in the judgment of the Vendor its rights and interests in said locomotives may be materially endangered by such delay.

The Vendee shall comply in all respects with all laws of the United States and of the states, and countries in or through which the said locomotives may be operated, covering the use, operation or maintenance of said locomotives, and with the lawful rules with respect to said locomotives, of the Interstate Commerce Commission, and of every other legislative, administrative or judicial body exercising any power or jurisdiction over said locomotives; and in the event that the said laws or rules require any alterations of any of said locomotives, or any additional equipment or appliances thereon, the Vendee shall conform therewith at its own expense and shall maintain said locomotives in proper condition for

operation under such laws and rules during the life of this agreement.

6. The Vendor shall retain full legal title to and property in all said locomotives until the Vendee shall have made all the payments and shall have performed all of the covenants in this agreement provided to be made, kept or performed by the Vendee, notwithstanding the delivery of said locomotives to and the possession and use thereof by the Vendee as herein provided. Any and all replacements of parts of said locomotives or additional equipment or facilities installed thereon or therein shall constitute accessions to said locomotives, the title to which shall be be immediately vested in the Vendor, and which shall be subject to all the terms, reservations and conditions of this agreement. When the Vendee shall have paid in full the entire purchase price for all of said locomotives, with interest thereon, and all other payments herein provided to be made by the Vendee with respect thereto, title to and property in all said locomotives shall pass to the Vendee without further transfer or act on the part of the Vendor, but the Vendor will, if requested by the Vendee so to do, execute and deliver to the Vendee a bill of sale covering said locomotives when the full purchase price with interest and other payments as aforesaid have been fully paid.

7. The Vendee at its own cost shall keep all said locomotives in good order and proper running repair and in case of damage thereto by fire, accident or otherwise will promptly repair the locomotive so damaged and restore it to good running order. In case any locomotive shall be damaged be-

yond repair or lost or destroyed, the Vendee shall promptly pay the Vendor an amount equal to the full unpaid balance of the purchase price of such locomotive so damaged, lost or destroyed (any payment already received by the Vendor from another Railroad Company, or other third party, as compensation for such damage, loss or destruction to be first credited toward payment of such balance) and such amount will be credited by the Vendor toward payment in inverse order of the latest installment payment or payments to be made by the Vendee hereunder. Within twenty (20) days after receiving advice of damage to or loss or destruction of any of said locomotives, the Vendee will give the Vendor written notice thereof with full particulars of the extent of the damage, loss or destruction incurred. Any failure on the part of the Vendee to repair or replace any such locomotive with reasonable promptness or to pay for such locomotive which may be so lost or destroyed, shall entitle the Vendor to declare a default hereunder and to take such action as is authorized to be taken by the Vendor in case of a default by the Vendee in making payment for said locomotives as herein provided.

The Vendee at its own expense shall keep the locomotives covered by this agreement insured under its blanket insurance policy, against damage or destruction by fire while on its own line, in the same manner and extent as other of its equipment, at all times while this agreement shall be in force. The Vendee shall furnish evidence of such insurance satisfactory to the Vendor. In case the Vendee shall fail to keep said locomotives so insured or furnish evidence of such insurance satisfactory to the Vendor, the Vendor may insure

said locomotives and in this event Vendee shall be obligated to repay Vendor the amount of premiums paid therefor with interest thereon at the legal rate from time of such payment until repaid.

The proceeds of any such insurance shall be payable to the Vendor, but shall be paid over to the Vendee when such loss or damage to said locomotives shall have been restored at the expense of the Vendee as hereinbefore provided. Nothing herein stated shall release the Vendee from its obligations hereunder in case of any damage, loss, or destruction of said property.

The Vendee will permit inspection of said locomotives from time to time by agents of the Vendor and upon request of the Vendor will furnish from time to time a statement showing the location (as nearly as may be) and condition of said locomotives.

8. Before delivery of said locomotives to the Vendee, the Vendor will fasten upon each side of each locomotive, a metal plate bearing the following words, or will mark upon each side of each such locomotive the following words, in letters not less than one inch in height: "General Motors Corporation (Electro-Motive Division), Owner." Such plates or markings will be so located as to be readily visible and to indicate plainly the Vendor's ownership of said locomotives. In case, during the continuance of this agreement, such plates or markings shall at any time be removed, defaced or destroyed, the Vendee shall immediately at its own cost, cause the same to be restored or replaced; and if by reason of change of law or otherwise, additional or other plates or markings shall be required to protect the interests

of the Vendor, the Vendee shall provide and install and thereafter maintain the same on all of such locomotives.

Said locomotives may be lettered "Great Northern", "G. N." or in some other appropriate manner, as the Vendee may desire, and may be numbered for convenience in identification; but the Vendee, during the continuance of this agreement, will not allow the name of any corporation or other party to be placed on any of said locomotives, in such manner that such name or designation might be interpreted as a claim of ownership thereof by any person, association or corporation other than the Vendor or its assignee. The Vendee shall not, without the Vendor's written consent, alter or obliterate the lettering or numbering (as hereinabove specified) of said locomotives or any thereof. Any change in the lettering or numbering of any of said locomotives requested by the Vendee and assented to by the Vendor shall be evidenced by agreement in form satisfactory to the Vendor executed in one or more counterparts as it may request and filed and/or recorded in such office or offices as the Vendor shall direct.

All the provisions of this agreement shall apply with respect to locomotives substituted for such of the locomotives originally delivered as shall become damaged, lost or destroyed with precisely the same force and effect, as if such substituted locomotive was part of the locomotives originally delivered; and the word "locomotives" as used herein shall mean as well the substituted as the original locomotives.

In the event of a transfer or assignment, or successive transfers or assignments by the Vendor or its assignees of title to said locomotives and of the Vendor's rights hereunder in re-

spect thereof, whenever requested by any such transferee or assignee, the Vendee shall change the name plates on all said locomotives to indicate the title of such transferee or assignee to such locomotives and its succession to the rights of the Vendor hereunder, but the expense of making such change in plates shall be borne by the party or parties requesting such change, except that the expense of such change in connection with the assignment contemplated in the first paragraph of Section 3 hereof shall be paid by the Vendee.

9. The Vendee shall bear the risk of and shall not be released from its obligations hereunder in the event of any damage to or destruction or loss of any of the said locomotives from any cause whatsoever after delivery thereof to the Vendee. The Vendee further agrees to save, indemnify and keep harmless the Vendor from and against all loss, damages, injuries, claims or demands whatsoever, regardless of the cause thereof, in connection with any accident or otherwise arising from or caused by operation or use of said locomotives while this agreement is in force.

10 (a) In case the Vendee shall make default in the payment of any installment of the purchase price of said locomotives, as herein provided, and shall remain in default for more than thirty (30) days after such payment shall have become due, or shall be in default under the provisions of Sections 11 and 12 hereof; or shall fail or refuse to comply with any other of the terms and covenants in this agreement on its part to be kept and performed, or to make provisions satisfactory to Vendor for such compliance, and any such failure or refusal, other than a default under Section 11

hereof, or a default in the payment of a monthly installment hereunder, shall continue for more than thirty (30) days after notice in writing thereof to the Vendee, then, in any such case (herein sometimes called events of default) and at any time thereafter during the continuance of such default the Vendor, without further notice or demand except to the extent necessary in order to comply with any legal requirements then in force and applicable to such action by the Vendor, may declare the entire unpaid balance of the purchase price of the locomotives immediately due and payable, without further demand, together with interest thereon at the annual rate referred to in Section 3 to such date of default; and thereafter interest shall be payable by the Vendee upon any portion thereof overdue during such time as it shall remain overdue at the rate of five per cent (5%) per annum. The Vendor shall thereupon be entitled to recover judgment for the entire amount so payable by the Vendee with interest thereon at said rate, and to collect such judgment out of any property of the Vendee wherever situated. The Vendor may at its election (and if before sale of said locomotives as in paragraph (c) hereof provided, the Vendee shall have paid to the Vendor all costs and expenses of the Vendor incidental to any such default, and all sums which shall then have become due and payable by the Vendee hereunder, other than that part of said purchase price as shall have become due solely because of the declaration of the Vendor under this paragraph, and shall have remedied all other existing events of default or made provision therefor satisfactory to the Vendor, the Vendor shall) waive any such event of default and its consequences and rescind and annul any such declaration or termination by giving notice

to the Vendee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such default had occurred or existed and no such declaration nor termination had been made; but no such waiver, rescission or annulment shall limit or affect the Vendor's right, upon any subsequent default, to declare the unpaid balance of said purchase price due in the manner provided in this paragraph, or extend or affect any other default, or impair any rights or remedies consequent upon any other such default.

(b) If the Vendee shall make default as hereinabove provided, then at any time thereafter during the continuance of such default, the Vendor without further notice or demand except to the extent necessary in order to comply with any such legal requirements, may take or cause to be taken by its agent or agents immediate possession of said locomotives, or any thereof, and all present and future equipment, attachments and accessories thereof, without liability to return to the Vendee any sums theretofore paid, and free from all claims whatsoever except as hereinafter in this Section 10 expressly provided, and may remove the same from the use and possession of the Vendee and for such purpose may enter upon the Vendee's premises where any of said locomotives may be located, and may use and employ in connection with such removal any available trackage and other facilities or means of the Vendee, without process of law; and the Vendee shall assemble and deliver said locomotives, with all replacements, improvements, equipment, attachments and accessories thereof, at its own cost at such place or places on its railroad as the Vendor may reasonably designate, and in

depositing a written statement thereof, enclosed in a postpaid envelope in any United States Post Office, directed to the Vendee respectively at its office or place of business in the City of St. Paul, Minnesota, and an affidavit by any person so depositing such notice in respect of such mailing shall be deemed to be and shall be conclusive evidence of the giving and receipt of such notice and of the making of such demand.

14. If any provision of this agreement is prohibited by any applicable law of any state or country, or by any applicable law of any state or country this agreement is converted into any instrument other than an agreement of conditional sale, the remaining provisions of this agreement shall remain in full force and effect in such state or country and this agreement shall remain in full force and effect as an agreement of conditional sale in all other states and countries in which it is filed of record as herein provided.

Where, however, the conflicting provisions of any applicable law of any state or country may be waived, they are hereby waived by the Vendee to the full extent permitted by law.

15. Any extension of time granted by the Vendor to the Vendee for the payment of any sum due under this agreement, shall not be deemed a waiver of the title of the Vendor reserved hereunder nor of any of its rights and remedies hereunder or otherwise existing.

16. The Vendee shall cause this agreement to be filed, registered, deposited and recorded to the satisfaction of counsel for the Vendor, wherever required for the proper protec-

tion of the Vendor's title to said locomotives and any replacement or replacements thereof, and of its rights under this agreement; and the Vendee shall from time to time do and perform any other act, and will execute, acknowledge, deliver, file, register and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of such protection of its title and rights, or for the purpose of carrying out the intention of this agreement. The Vendee shall pay also all cost, charges and expenses, except the counsel fees of the Vendor, incident to the printing, filing, registering and recording of this agreement and of any instrument supplemental hereto or amendatory hereof and of the assignment contemplated in the first paragraph of Section 3 hereof, but not of subsequent assignments.

17. This agreement may be simultaneously executed in one or more counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

18. No variation or modification of this agreement and no waiver of any of its provisions or conditions, shall be valid unless in writing and signed by duly authorized officers of the Vendee and the Vendor.

19. So long as the Vendee shall not be in default under this agreement it shall be entitled to the possession of said locomotives and shall have the full right of use thereof upon the lines of railroad owned, leased or operated by it, or over

which it has trackage rights, and upon connecting and other railroads in the usual interchange of equipment, but subject at all times to all terms and conditions of this agreement.

20. The terms of this agreement and all the rights and obligations hereunder shall be governed by the laws of the State in which the locomotives described herein are constructed.

IN WITNESS WHEREOF, the Vendor and the Vendee, respectively, each pursuant to due corporate authority, have caused these presents to be signed by their respective corporate names and their respective corporate seals to be hereunto affixed, duly attested, as of the day and year first above written.

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

By .....
Vice President.

Attest:

.....
Asst. Treasurer.

Signed, sealed and delivered in
the presence of:

.....
.....

GREAT NORTHERN RAILWAY COMPANY

By .....
Vice President.

Attest:

.....
Asst. Secretary.

Signed, sealed and delivered in
the presence of:

.....
.....

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

I, James Sorna, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn, and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 27 day of June..., A. D. 1947, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such as to General Motors Corporation (Electro-Motive Division) to the within and foregoing instrument, C. R. Osborn and F. H. Salvador, each to me personally known and known to me to be, respectively, a Vice President and an Assistant Treasurer of General Motors Corporation (Electro-Motive Division) one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Treasurer, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed, as such, and the said C. R. Osborn and F. H. Salvador, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said C. R. Osborn resides in the Village of Hinsdale, State of Illinois, and that the said F. H. Salvador resides in the Village of La Grange, State of Illinois; that said C. R. Osborn is a Vice President and said F. H. Salvador is an Assistant Treasurer of General Motors Corporation (Electro-Motive Division), one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Vice President and Assistant Treasurer, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Treasurer in behalf of said corporation by like authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of Cook, State of Illinois, this the day and year in this my certificate first above written.

James Sorna

My Commission Expires
January 12, 1950

STATE OF MINNESOTA, }
COUNTY OF RAMSEY. } ss.

I, Howard V. Rhedin, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 27th day of May..., A. D. 1947, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such as to Great Northern Railway Company to the within and foregoing instrument, Edwin C. Matthias and C. F. Ziegahn, each to me personally known and known to me to be respectively Vice President and Assistant Secretary of the Great Northern Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said Edwin C. Matthias and C. F. Ziegahn, being by me severally duly sworn, did on oath, each for himself and not one for the other severally depose and say and acknowledge in the presence of said witnesses that the said Edwin C. Matthias resides in the City of St. Paul, State of Minnesota, and that the said C. F. Ziegahn resides in the City of St. Paul, State of Minnesota; that said Edwin C. Matthias is Vice President and said C. F. Ziegahn is Assistant Secretary of the Great Northern Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Vice President and Assistant Secretary know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of Ramsey, State of Minnesota, this the day and year in this my certificate first above written.

Howard V. Rhedin

HOWARD V. RHEDIN,
Notary Public, Ramsey County, Minn.
My Commission Expires Mar. 30, 1951.

EXHIBIT I

ASSIGNMENT

OF

CONDITIONAL SALE AGREEMENT

BETWEEN

GENERAL MOTORS CORPORATION
(ELECTRO-MOTIVE DIVISION)

AND

GREAT NORTHERN RAILWAY COMPANY

TO

.....

EXHIBIT 1

AGREEMENT, dated as of June 16, 1947, between GENERAL MOTORS CORPORATION, a corporation of the State of Delaware (Electro-Motive Division), hereinafter referred to as the "Manufacturer", party of the first part, and ....., a ...., with its principal place of business at ....., hereinafter referred to as the "Bank", party of the second part, and GREAT NORTHERN RAILWAY COMPANY, a corporation of the State of Minnesota, hereinafter referred to as the "Railroad", as party of the third part;

WHEREAS, the Manufacturer and the Railroad have entered into a Conditional Sale Agreement, hereinafter called the "Agreement", dated as of June 16, 1947, covering the construction, sale and delivery of eleven (11) Diesel locomotives, hereinafter sometimes referred to as "locomotives", a description and number of locomotives and the estimated price per locomotive being as follows:

Number of Locomotives	Description	Railroad's Serial Numbers
2	1500-Horsepower Diesel Passenger Locomotives, Railroad's purchase order No. 43722, Manufacturer's order No. E-802, as described and warranted in Manufacturer's Specification 8002, dated July 10, 1945, as	

	supplemented May 10, 1947, to be delivered in October, 1947, at an estimated price per locomotive of $149,196.00	228 and 229
1	3000-Horsepower Diesel Passenger Locomotive, Railroad's purchase order No. 43720, Manufacturer's order No. E-800, consisting of one lead unit as described and warranted in Manufacturer's Specification 8002, dated July 10, 1945, and one booster unit as described and warranted in Manufacturer's Specification 8003, dated July 20, 1945, as supplemented May 7, 1947, to be delivered in October, 1947, at an estimated price of $280,429.00	260
1	3000-Horsepower Diesel Freight Locomotive, Railroad's purchase order No. 43718, Manufacturer's order No. E-798, as described and warranted in Manufacturer's Specification 8002, dated July 10, 1945, as supplemented May 5, 1947, to be delivered in October, 1947, at an estimated price of $296,126.00	259
3	2000-Horsepower Diesel Passenger Locomotives, Railroad's purchase order No. 43721, Manufacturer's order No. E-801, as described and warranted in Manufacturer's Specification 8005, dated June 1, 1946, as supplemented May 8, 1947, to be delivered in August, 1947, at an estimated price per locomotive of $200,192.00	510 to 512 both inclusive
4	4500-Horsepower Diesel Passenger Locomotives, Railroad's purchase order No. 16396, Manufacturer's order No. E-819, each locomotive consisting of two lead units as described and warranted in Manufacturer's Specification 8002, dated July 10, 1945, and one booster unit as described and warranted in Manufacturer's Specification 8003, dated July 20, 1945, as supplemented May 9, 1947, to be delivered in November, 1947, at an estimated price per locomotive of $449,586.00	350 to 353 both inclusive

WHEREAS, after the payments to be made by the Railroad to the Manufacturer under paragraph (a) of Section 2 of said Agreement have been made, there will be a balance of $2,460,000.00 payable by the Railroad to the Manufacturer on account of the purchase price of said locomotives under paragraphs (b) and (c) of said Section 2 of said Agreement;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that in consideration of the sum of One Dollar ($1.00) in hand paid by the Bank to the Manufacturer, at or before the execu-

tion and delivery hereof, the receipt of which by the Manufacturer from the Bank is hereby acknowledged, and of the mutual covenants herein contained, the parties hereto do hereby covenant and agree as follows, to-wit:

1. The Manufacturer hereby sells, assigns, transfers and sets over unto the Bank, its successors and assigns, all the right, title and interest of the Manufacturer in and to the said locomotives from and after the delivery to, and acceptance thereof by, the Railroad, including the right to receive the payments provided for in said Agreement, and the right of assignment as provided by Section 3 of said Agreement, and subject to the provisions thereof, together with all the rights and subject to all the obligations in respect thereof set forth in the said Agreement as applying to the Manufacturer (Vendor) thereunder as therein defined, without any recourse, however, against the Manufacturer for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the said Agreement; *provided, however*, that this assignment shall not pass to the Bank the right to receive any of the payments to be made by the Railroad under paragraph (a) of Section 2 of said Agreement; *and provided, further* that this assignment shall not subject the Bank to, or transfer or pass, or in any way affect or modify, the liability of the Manufacturer, or of any successor or successors to its manufacturing property and business, in respect of its obligations to construct and deliver the locomotives, or as to any warranty or indemnity with respect thereto contained in Sections 1 and 4 of said Agreement, it being understood and agreed that, notwithstanding this assignment, all said

obligations of the Manufacturer to the Railroad in respect of the said locomotives shall be and remain enforceable by the Railroad, its successors and assigns, against and only against the Manufacturer, and any successor or successors to all or substantially all of its property and business, as in said Agreement provided. Without hereby limiting the generality of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Bank to sue for, collect and receive, in its own name, but at the expense and liability and for the sole benefit of the Bank, all sums payable, and likewise to enforce any and all action to be taken by the Railroad under said Agreement in respect of the locomotives described therein.

The Manufacturer represents and warrants to the Bank, its successors and assigns, that said Agreement was lawfully executed for a valid consideration; that it is a valid and existing contract, and, according to its terms, binding upon the parties thereto, and that it has secured and is prepared to exhibit a statement of counsel of the Railroad that said Agreement and this Assignment have been or will be filed, registered, deposited and recorded in accordance with the provisions of Section 16 of said Agreement.

2. In consideration of the aforementioned assignment, and the agreement of the Railroad set out in Section 3 hereof, the Bank agrees to pay to the Manufacturer promptly upon receipt from the Manufacturer of an executed counterpart of the acceptance by the Railroad of the delivery of each locomotive under the terms of said Agreement, the amount shown below for each such locomotive:

Description	*Amount payable per locomotive*
1500-Horsepower Diesel Passenger Locomotives, each	$113,000.00
3000-Horsepower Diesel Passenger Locomotive	211,000.00
3000-Horsepower Diesel Freight Locomotive	223,000.00
2000-Horsepower Diesel Passenger Locomotives, each	150,666.67
4500-Horsepower Diesel Passenger Locomotives, each	337,000.00

The amounts to be so paid by the Bank to the Manufacturer will aggregate $2,460,000.00.

3. The Railroad agrees to pay to the Bank interest at the rate of ..... percent (....%) per annum, at the times and under the conditions provided in paragraphs (b) and (c) of Section 2 of said Agreement from the 16th day of June, 1947.

The Railroad also agrees to pay to the Manufacturer, upon receipt of invoice therefor, interest at the rate of ..... percent (....%) per annum on the amount hereinabove in Section 2 shown for each locomotive delivered, from the date of acceptance by the Railroad of delivery thereof to the date on which the Manufacturer receives payment of said amount from the Bank.

The term "interest" as used in this assignment means simple interest as distinguished from compound interest.

If as a result of any proceedings by or against the Manufacturer under the Bankruptcy Act, as now or hereafter exist-

ing, or as a result of the appointment of a receiver for the Manufacturer, or for any other reason, delivery of any of the locomotives described in the Agreement is not made, then and in that event the obligation of the Railroad to make payments of interest and monthly installments under paragraphs (b) and (c) of Section 2 of said Agreement shall be reduced by the amount hereinabove in Section 2 shown for any such undelivered locomotive and the Bank shall refund to the Railroad any payments theretofore made by the Railroad to the Bank in excess of the Railroad's obligation so reduced.

4. The Manufacturer covenants and agrees with the Bank that the Manufacturer is the lawful owner of the said locomotives and rights under said Agreement sold, assigned, transferred and set over, or intended to be sold, assigned, transferred and set over, to the Bank by this assignment; that the same are free from all liens or encumbrances; that the Manufacturer has good and lawful right to sell the same as aforesaid, and that the Manufacturer will warrant and defend the same against the lawful demands of all persons whomsoever based on claims originating prior to the delivery of the said locomotives by the Manufacturer; all subject, however, to the provisions of the aforesaid Agreement, and the rights of the Railroad thereunder.

5. The Manufacturer covenants and agrees with the Bank, its successors and assigns, that, in any suit or action brought by the Bank under said Agreement for any instalment of the purchase price, or any part thereof, or to enforce any provisions of said Agreement, the Manufacturer will save, indemnify and keep harmless the Bank from and against all ex-

pense, loss or damage suffered by reason of any defense, set-off or counterclaim of the Railroad arising out of a breach by the Manufacturer, or any successor or successors to its manufacturing property and business, of any of the Manufacturer's obligations respecting said locomotives under the terms and conditions of said Agreement, or arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Manufacturer or successor or successors; provided, the Manufacturer or such successor is given due notice of such defense, set-off or counterclaim, and reasonable opportunity to defend against the same. The Manufacturer agrees to save, indemnify and keep harmless the Bank from and against any and all royalties, damages, claims, suits, judgments and costs that may arise from the use of any patented article, except with regard to any appliances, devices or materials specified by the Railroad and not manufactured by the Manufacturer.

6. As further assurance, the Manufacturer agrees that it will execute, acknowledge and deliver any and all further instruments, including any further assignments, required by law or reasonably requested by the Bank, for the purpose of preservation of the rights, title, interests and benefits of the Bank hereunder, including the rights hereby assigned to receive payments under said Agreement, or for the purpose of carrying out the intention of this Agreement.

7. All rights and obligations hereunder shall be governed by the laws of .....

8. This Assignment may be simultaneously executed in two (2) or more counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument,

which shall be sufficiently evidenced for all purposes by any such original counterpart. The Bank agrees to deliver one of such counterparts or a certified copy thereof to the Railroad.

IN WITNESS WHEREOF, The parties hereto, pursuant to due corporate authority, have caused this Assignment to be executed in their respective corporate names by their respective officers thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, as of the day and year first above written.

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

By .....
Vice President.

ATTEST:

.....
Asst. Treasurer.

Signed, sealed and delivered as to
General Motors Corporation (Electro-Motive
Division) in the presence of:

.....

.....
Witnesses.

.....

By .....
.....President.

ATTEST:

.....

Signed, sealed and delivered as to

.....
in the presence of:

.....

.....
Witnesses.

GREAT NORTHERN RAILWAY COMPANY

By .....
Vice President.

ATTEST:

.....
Secretary.

Signed, sealed and delivered as to
Great Northern Railway Company
in the presence of:

.....

.....
Witnesses.

NOTE: Acknowledgments will be added.

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 7TH day of
JUNE A. D. 1947 at 10:00
o'clock A M. and recorded in Vol.
39 of RAILROAD MORTGAGES
on pages 474 ET SEQ.
[signature]

COUNTERPART
No. 18 OF 20

CONDITIONAL SALE AGREEMENT

BETWEEN

GENERAL MOTORS CORPORATION

(ELECTRO-MOTIVE DIVISION)

AND

GREAT NORTHERN RAILWAY COMPANY

DATED AS OF JULY 1, 1947

THIS AGREEMENT, made as of July 1, 1947, by and between GENERAL MOTORS CORPORATION, a corporation organized and existing under and by virtue of the laws of the State of Delaware (Electro-Motive Division), hereinafter sometimes called "Vendor" and sometimes called "General Motors", party of the first part, and GREAT NORTHERN RAILWAY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Minnesota, hereinafter called "Vendee", party of the second part,

WITNESSETH:

That in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. General Motors will construct, sell and deliver ten (10) Diesel locomotives as hereinafter described and collectively sometimes called "locomotives" and Vendee will accept and purchase said locomotives on completion thereof, subject to the terms and conditions of this agreement. General Motors will deliver said locomotives ready for service and free of all liens, encumbrances and claims of any nature by or in favor of any other person or party and subject only to the reservation of title thereto by General Motors in accordance with the provisions hereof. Said locomotives shall be delivered, from time to time as completed, to Vendee f. o. b. the tracks of the Vendee at Fridley, Minnesota, freight

charges prepaid, but Vendee shall assume all risk of loss or damage incident to transportation of the locomotives from General Motors' plant at McCook, Illinois, to said point of delivery.

Said locomotives shall be constructed in accordance with specifications prepared by General Motors and modifications thereof mutually agreed upon from time to time. A description and number of locomotives and the estimated price per locomotive are as follows:

Number of Locomotives	Description	Vendee's Serial Numbers
2	1500-Horsepower Diesel Passenger Locomotives, Vendee's purchase order No. 43722, General Motors' order No. E-802, as described and warranted in General Motors' Specification 8002, dated July 10, 1945, as supplemented May 10, 1947, to be delivered in October, 1947, at an estimated price per locomotive of $149,196.00	230 and 231
1	3000-Horsepower Diesel Passenger Locomotive, Vendee's purchase order No. 43720, General Motors' order No. E-800, consisting of one lead unit as described and warranted in General Motors' Specification 8002, dated July 10, 1945, and one booster unit as described and warranted in	

	General Motors' Specification 8003, dated July 20, 1945, as supplemented May 7, 1947, to be delivered in October, 1947, at an estimated price of $280,429.00	261
2	3000-Horsepower Diesel Freight Locomotives, Vendee's purchase order No. 43719 General Motors' order No. E-799, as described and warranted in General Motors' Specification 8002, dated July 10, 1945, as supplemented May 6, 1947, to be delivered in October, 1947, at an estimated price per locomotive of $281,326.00	262 and 263
5	4500-Horsepower Diesel Passenger Locomotives, Vendee's purchase order No. 16396, General Motors' order No. E-819, each locomotive consisting of two lead units, as described and warranted in General Motors' Specification 8002, dated July 10, 1945, and one booster unit as described and warranted in General Motors' Specification 8003, dated July 20, 1945, as supplemented May 9, 1947, to be delivered in December, 1947, at an estimated price per locomotive of $449,586.00	354 to 358 both inclusive

(Free of charge)

493

The total estimated price of all locomotives covered by this agreement is the sum of $3,389,403.00.

General Motors will give the Vendee full opportunity to inspect said locomotives during the construction thereof at its plant. On completion of each locomotive the Vendee will arrange for final inspection thereof and will have its inspector execute in quadruplicate the usual form of certificate of inspection covering all locomotives found to be completed in accordance with the plans and specifications. Each such certificate with respect to the locomotives covered thereby shall be final and conclusive evidence that such locomotives conform in workmanship, material and construction, and in all other respects, to the requirements and provisions of this agreement. The Vendee will arrange also for execution of certificates of acceptance of said locomotives by a duly authorized agent upon arrival thereof at the designated place of delivery.

2. The Vendee will pay the Vendor for said locomotives, completed and delivered as aforesaid, at the office of the Vendor's treasurer at Chicago, Illinois, or at any bank or trust company, either in the cities of Chicago or New York or elsewhere, which the Vendor in writing may direct, in the following manner:

(a) Upon delivery and acceptance of each locomotive and receipt of invoice therefor, an amount equal to the excess of the purchase price thereof, as finally determined, over the amount shown below for each such locomotive:

1500-Horsepower Diesel Passenger Locomotives, each	$113,000.00
3000-Horsepower Diesel Passenger Locomotive	211,000.00
3000-Horsepower Diesel Freight Locomotive, each	209,000.00
4500-Horsepower Diesel Passenger Locomotives, each	337,000.00

(b) At three-month intervals, interest on the remaining $2,540,000.00 of the total estimated price from July 1, 1947, to July 1, 1949, at the annual rate to be determined as provided in Section 3 hereof.

(c) The remaining $2,540,000.00 of the total estimated price in sixty (60) equal monthly installments of $42,333.33 each, except as may otherwise be provided herein, on the 1st day of each month commencing August, 1949, excepting only that the final monthly payment of principal shall be such as to extinguish the debt then remaining after application of all previous payments credited thereto, together with interest then accrued and unpaid from the 1st day of the previous calendar month on the diminishing unpaid balances of said sum of $2,540,000.00, at the annual rate to be determined as provided in Section 3 hereof, until said sum of $2,540,000.00, together with such interest, shall have been paid in full.

The term "interest" as used in this agreement means simple interest as distinguished from compound interest.

The Vendee shall have the right, on any monthly installment payment date, to make (a) payment of the entire balance of the purchase price of the equipment then unpaid hereunder, with interest accrued to such date of payment, or (b) partial payment of such unpaid purchase price in the amount of $10,000, or any multiple thereof, and such partial payment, with suitable allowance for interest, will be credited by the Vendor toward payment in inverse order of latest installment payment or payments to be made by the Vendee hereunder.

All payments by the Vendee hereunder shall be free of expense to the Vendor for collection or other charges, and no deductions shall be made therefrom of the amount of any Federal, State or other taxes, assessments or governmental charges hereafter levied or imposed upon said locomotives, or upon the selling, shipment, delivery, or use thereof, and the Vendee hereby specifically agrees to pay to the Vendor, in addition to the above mentioned purchase price of the locomotives, all sales taxes, or like taxes or charges which may be assessed, levied or imposed upon or with respect to the sale or delivery to or use by the Vendee of said locomotives, or any thereof, and which the Vendor may be legally required to pay to any State or municipality or to the United States or other government. All payments provided for in this agreement shall be made by the Vendee to the Vendor in such currency of the United States of America as at the time of payment shall be legal tender for payment of public and private debts.

3. With reasonable promptness after the execution of this agreement, the Vendee will procure a purchaser of the interest of the Vendor in this agreement and of the locomotives described herein in accordance with the terms of an assignment in the form marked "Exhibit 1" attached hereto, and hereby made a part hereof. Upon the request of such purchaser the Vendor will forthwith execute said assignment which shall appropriately describe the purchaser and shall have inserted therein the annual rate of interest, agreed upon between the purchaser and the Vendee, which the unpaid balance of the purchase price under paragraphs (b) and (c) of Section 2 hereof shall bear.

All or any of the rights of such purchaser under this agreement, including the right to receive the payments herein provided to be made by the Vendee under paragraphs (b) and (c) of Section 2, may be assigned by the purchaser and reassigned by any Assignee at any time and from time to time. Neither the original nor any subsequent assignment shall subject any Assignee to or relieve General Motors from any of the obligations of General Motors as to the construction or delivery of the locomotives or as to any warranty or indemnity with respect thereto contained in Sections 1 and 4 hereof, or relieve the Vendee from its obligation to General Motors under Section 4 and the last paragraph of Section 2 hereof, except that the Assignee shall be obligated to execute necessary and proper instruments of transfer as and when the Vendee shall be entitled thereto pursuant to the provisions of Section 6 hereof.

In the event of any such assignment the Assignor shall give written notice to Vendee, together with a counterpart or copy of such assignment, stating the identity and post

yond repair or lost or destroyed, the Vendee shall promptly pay the Vendor an amount equal to the full unpaid balance of the purchase price of such locomotive so damaged, lost or destroyed (any payment already received by the Vendor from another Railroad Company, or other third party, as compensation for such damage, loss or destruction to be first credited toward payment of such balance) and such amount will be credited by the Vendor toward payment in inverse order of the latest installment payment or payments to be made by the Vendee hereunder. Within twenty (20) days after receiving advice of damage to or loss or destruction of any of said locomotives, the Vendee will give the Vendor written notice thereof with full particulars of the extent of the damage, loss or destruction incurred. Any failure on the part of the Vendee to repair or replace any such locomotive with reasonable promptness or to pay for such locomotive which may be so lost or destroyed, shall entitle the Vendor to declare a default hereunder and to take such action as is authorized to be taken by the Vendor in case of a default by the Vendee in making payment for said locomotives as herein provided.

The Vendee at its own expense shall keep the locomotives covered by this agreement insured under its blanket insurance policy, against damage or destruction by fire while on its own line, in the same manner and extent as other of its equipment, at all times while this agreement shall be in force. The Vendee shall furnish evidence of such insurance satisfactory to the Vendor. In case the Vendee shall fail to keep said locomotives so insured or furnish evidence of such insurance satisfactory to the Vendor, the Vendor may insure

said locomotives and in this event Vendee shall be obligated to repay Vendor the amount of premiums paid therefor with interest thereon at the legal rate from time of such payment until repaid.

The proceeds of any such insurance shall be payable to the Vendor, but shall be paid over to the Vendee when such loss or damage to said locomotives shall have been restored at the expense of the Vendee as hereinbefore provided. Nothing herein stated shall release the Vendee from its obligations hereunder in case of any damage, loss, or destruction of said property.

The Vendee will permit inspection of said locomotives from time to time by agents of the Vendor and upon request of the Vendor will furnish from time to time a statement showing the location (as nearly as may be) and condition of said locomotives.

8. Before delivery of said locomotives to the Vendee, the Vendor will fasten upon each side of each locomotive, a metal plate bearing the following words, or will mark upon each side of each such locomotive the following words, in letters not less than one inch in height: "General Motors Corporation (Electro-Motive Division), Owner." Such plates or markings will be so located as to be readily visible and to indicate plainly the Vendor's ownership of said locomotives. In case, during the continuance of this agreement, such plates or markings shall at any time be removed, defaced or destroyed, the Vendee shall immediately at its own cost, cause the same to be restored or replaced; and if by reason of change of law or otherwise, additional or other plates or markings shall be required to protect the interests

of the Vendor, the Vendee shall provide and install and thereafter maintain the same on all of such locomotives.

Said locomotives may be lettered "Great Northern", "G. N." or in some other appropriate manner, as the Vendee may desire, and may be numbered for convenience in identification; but the Vendee, during the continuance of this agreement, will not allow the name of any corporation or other party to be placed on any of said locomotives, in such manner that such name or designation might be interpreted as a claim of ownership thereof by any person, association or corporation other than the Vendor or its assignee. The Vendee shall not, without the Vendor's written consent, alter or obliterate the lettering or numbering (as hereinabove specified) of said locomotives or any thereof. Any change in the lettering or numbering of any of said locomotives requested by the Vendee and assented to by the Vendor shall be evidenced by agreement in form satisfactory to the Vendor executed in one or more counterparts as it may request and filed and/or recorded in such office or offices as the Vendor shall direct.

All the provisions of this agreement shall apply with respect to locomotives substituted for such of the locomotives originally delivered as shall become damaged, lost or destroyed with precisely the same force and effect, as if such substituted locomotive was part of the locomotives originally delivered; and the word "locomotives" as used herein shall mean as well the substituted as the original locomotives.

In the event of a transfer or assignment, or successive transfers or assignments by the Vendor or its assignees of title to said locomotives and of the Vendor's rights hereunder in re-

spect thereof, whenever requested by any such transferee or assignee, the Vendee shall change the name plates on all said locomotives to indicate the title of such transferee or assignee to such locomotives and its succession to the rights of the Vendor hereunder, but the expense of making such change in plates shall be borne by the party or parties requesting such change, except that the expense of such change in connection with the assignment contemplated in the first paragraph of Section 3 hereof shall be paid by the Vendee.

9. The Vendee shall bear the risk of and shall not be released from its obligations hereunder in the event of any damage to or destruction or loss of any of the said locomotives from any cause whatsoever after delivery thereof to the Vendee. The Vendee further agrees to save, indemnify and keep harmless the Vendor from and against all loss, damages, injuries, claims or demands whatsoever, regardless of the cause thereof, in connection with any accident or otherwise arising from or caused by operation or use of said locomotives while this agreement is in force.

10 (a) In case the Vendee shall make default in the payment of any installment of the purchase price of said locomotives, as herein provided, and shall remain in default for more than thirty (30) days after such payment shall have become due, or shall be in default under the provisions of Sections 11 and 12 hereof; or shall fail or refuse to comply with any other of the terms and covenants in this agreement on its part to be kept and performed, or to make provisions satisfactory to Vendor for such compliance, and any such failure or refusal, other than a default under Section 11

hereof, or a default in the payment of a monthly installment hereunder, shall continue for more than thirty (30) days after notice in writing thereof to the Vendee, then, in any such case (herein sometimes called events of default) and at any time thereafter during the continuance of such default the Vendor, without further notice or demand except to the extent necessary in order to comply with any legal requirements then in force and applicable to such action by the Vendor, may declare the entire unpaid balance of the purchase price of the locomotives immediately due and payable, without further demand, together with interest thereon at the annual rate referred to in Section 3 to such date of default; and thereafter interest shall be payable by the Vendee upon any portion thereof overdue during such time as it shall remain overdue at the rate of five per cent (5%) per annum. The Vendor shall thereupon be entitled to recover judgment for the entire amount so payable by the Vendee with interest thereon at said rate, and to collect such judgment out of any property of the Vendee wherever situated. The Vendor may at its election (and if before sale of said locomotives as in paragraph (c) hereof provided, the Vendee shall have paid to the Vendor all costs and expenses of the Vendor incidental to any such default, and all sums which shall then have become due and payable by the Vendee hereunder, other than that part of said purchase price as shall have become due solely because of the declaration of the Vendor under this paragraph, and shall have remedied all other existing events of default or made provision therefor satisfactory to the Vendor, the Vendor shall) waive any such event of default and its consequences and rescind and annul any such declaration or termination by giving notice

to the Vendee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such default had occurred or existed and no such declaration nor termination had been made; but no such waiver, rescission or annulment shall limit or affect the Vendor's right, upon any subsequent default, to declare the unpaid balance of said purchase price due in the manner provided in this paragraph, or extend or affect any other default, or impair any rights or remedies consequent upon any other such default.

(b) If the Vendee shall make default as hereinabove provided, then at any time thereafter during the continuance of such default, the Vendor without further notice or demand except to the extent necessary in order to comply with any such legal requirements, may take or cause to be taken by its agent or agents immediate possession of said locomotives, or any thereof, and all present and future equipment, attachments and accessories thereof, without liability to return to the Vendee any sums theretofore paid, and free from all claims whatsoever except as hereinafter in this Section 10 expressly provided, and may remove the same from the use and possession of the Vendee and for such purpose may enter upon the Vendee's premises where any of said locomotives may be located, and may use and employ in connection with such removal any available trackage and other facilities or means of the Vendee, without process of law; and the Vendee shall assemble and deliver said locomotives, with all replacements, improvements, equipment, attachments and accessories thereof, at its own cost at such place or places on its railroad as the Vendor may reasonably designate, and in

case of such retaking or delivery the Vendor shall have the right to store the same upon the premises of the Vendee without charge until the Vendor shall be able within a reasonable time to remove the same therefrom. The assembling and delivery of said locomotives as hereinbefore provided is of the essence of this agreement between the parties and upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Vendee requiring specific performance hereof.

(c) If the Vendee shall make default as hereinbefore provided, then at any time thereafter during the continuance of such default, and after declaring the entire purchase price immediately due and payable as hereinbefore provided, the Vendor with or without retaking possession thereof may sell said locomotives or any thereof, and all replacements thereof, and all improvements, equipment, attachments and accessories placed thereon, free from any and all claims of the Vendee, or of any other party claiming by, through or under it at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine, all subject to and in compliance with any legal requirements then in force and applicable to such sale. To the extent permitted by any such legal requirements, any sale or sales hereunder may be held or conducted at such location and at such time or times as the Vendor may fix, in one lot and as an entirety or in separate lots, and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine in compliance with any such legal requirements, provided that written notice of such sale shall be given to the Vendee at

least ten (10) days prior thereto, by telegram or registered mail addressed to the Vendee at its office in St. Paul, Minnesota, or such other notice, if any, as may be necessary to comply with any such legal requirements. If such sale shall be a private sale permitted by such legal requirements, it shall be subject to the right of the Vendee to purchase or provide a purchaser, within ten (10) days after notice of the proposed sale price, at the same or better price as offered by the intending purchaser. To the extent not prohibited by any legal requirements then in force and applicable to such sale, the Vendor may itself bid for and become the purchaser of said locomotives, or any thereof so offered for sale without accountability to the Vendee (except to the extent of surplus money received as hereinafter provided in paragraph (e) of this Section 10) and in payment of such purchase price the Vendor shall be entitled to the extent aforesaid to have credited on account thereof all sums due to the Vendor from the Vendee hereunder.

(d) Each and every power or remedy hereby specifically given to the Vendor shall be in addition to every other power or remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy, and no renewal or extension of any payments due hereunder, shall impair any such power or remedy, or shall

be construed to be a waiver of any default, or an acquiescence therein.

(e) If the Vendor shall exercise any of the powers or remedies conferred upon it hereunder, the Vendee shall have the right after all sums due hereunder to the Vendor shall have been received by it in full, including its proper costs and expenses incident to the collection thereof, to require title to any of said locomotives, if not previously sold or otherwise disposed of by the Vendor pursuant to the provisions hereof, to be transferred and assigned by the Vendor to the Vendee free from any further liabilities or obligations to the Vendor. If after applying all sums of money realised by the Vendor under the remedies herein provided, there shall remain any amount due it under the provisions of this agreement, the Vendee shall pay the amount of such deficit to the Vendor. If after applying as aforesaid all sums realized by the Vendor there shall remain a surplus in the possession of the Vendor such surplus shall be paid to the Vendee.

11. The filing by the Vendee or by creditors of the Vendee of any petition for reorganization or debt adjustment affecting the obligations of the Vendee under this agreement, under Section 77 of the Bankruptcy Act, or under any amendment or revision thereof, or under any other provision of the Bankruptcy Act as now or hereafter existing, or any voluntary assignment or transfer of the Vendee's interest in and under this agreement or any involuntary transfer of such interest by bankruptcy, or by the appointment of a receiver or trustee, or by execution or by any judicial or administrative decree

or process, or otherwise (unless such petition shall be dismissed or such assignment, transfer, decree or process shall within thirty (30) days from the filing or other effective date thereof, be nullified, stayed or otherwise rendered ineffective, or unless any such receiver(s) or trustee(s) shall within thirty (30) days from the date of his or their appointment adopt this agreement pursuant to due authority of the court of his or their appointment) shall be deemed a breach of this agreement and a default hereunder; whereupon the Vendor may elect to declare the entire unpaid balance of the purchase price immediately due and payable as hereinbefore provided and may thereupon forthwith retake possession of said locomotives or any thereof and exercise and enforce any and all other remedies as provided by Section 10 hereof.

12. The Vendee shall not assign nor transfer this agreement or any of its rights hereunder, nor transfer nor sublet the said locomotives or any thereof without the Vendor's written consent first had and obtained, and shall not cause nor permit any of said locomotives to be pledged or held for any debt or obligation owing by the Vendee or to be in any manner encumbered, and shall not suffer the said locomotives or any thereof to pass out of the Vendee's control except in the ordinary course of interchange of equipment with connecting railway carriers.

13. Wherever provision is made in this agreement for any notice or demand to or upon the Vendee, or if at any time, the Vendor shall desire to give notice to or make any demand upon the Vendee, the same may be given or made by

depositing a written statement thereof, enclosed in a postpaid envelope in any United States Post Office, directed to the Vendee respectively at its office or place of business in the City of St. Paul, Minnesota, and an affidavit by any person so depositing such notice in respect of such mailing shall be deemed to be and shall be conclusive evidence of the giving and receipt of such notice and of the making of such demand.

14. If any provision of this agreement is prohibited by any applicable law of any state or country, or by any applicable law of any state or country this agreement is converted into any instrument other than an agreement of conditional sale, the remaining provisions of this agreement shall remain in full force and effect in such state or country and this agreement shall remain in full force and effect as an agreement of conditional sale in all other states and countries in which it is filed of record as herein provided.

Where, however, the conflicting provisions of any applicable law of any state or country may be waived, they are hereby waived by the Vendee to the full extent permitted by law.

15. Any extension of time granted by the Vendor to the Vendee for the payment of any sum due under this agreement, shall not be deemed a waiver of the title of the Vendor reserved hereunder nor of any of its rights and remedies hereunder or otherwise existing.

16. The Vendee shall cause this agreement to be filed, registered, deposited and recorded to the satisfaction of counsel for the Vendor, wherever required for the proper protec-

tion of the Vendor's title to said locomotives and any replacement or replacements thereof, and of its rights under this agreement; and the Vendee shall from time to time do and perform any other act, and will execute, acknowledge, deliver, file, register and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of such protection of its title and rights, or for the purpose of carrying out the intention of this agreement. The Vendee shall pay also all cost, charges and expenses, except the counsel fees of the Vendor, incident to the printing, filing, registering and recording of this agreement and of any instrument supplemental hereto or amendatory hereof and of the assignment contemplated in the first paragraph of Section 3 hereof, but not of subsequent assignments.

17. This agreement may be simultaneously executed in one or more counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

18. No variation or modification of this agreement and no waiver of any of its provisions or conditions, shall be valid unless in writing and signed by duly authorized officers of the Vendee and the Vendor.

19. So long as the Vendee shall not be in default under this agreement it shall be entitled to the possession of said locomotives and shall have the full right of use thereof upon the lines of railroad owned, leased or operated by it, or over

which it has trackage rights, and upon connecting and other railroads in the usual interchange of equipment, but subject at all times to all terms and conditions of this agreement.

20. The terms of this agreement and all the rights and obligations hereunder shall be governed by the laws of the State in which the locomotives described herein are constructed.

IN WITNESS WHEREOF, the Vendor and the Vendee, respectively, each pursuant to due corporate authority, have caused these presents to be signed by their respective corporate names and their respective corporate seals to be hereunto affixed, duly attested, as of the day and year first above written.

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

By .....
Vice President.

Attest:
.....
Asst. Treasurer.

Signed, sealed and delivered in
the presence of:
.....
.....

GREAT NORTHERN RAILWAY COMPANY

By .....
Vice President.

Attest:
.....
Secretary.

Signed, sealed and delivered in
the presence of:
.....
.....

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, James Sorna, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn, and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 6th day of June, A. D. 1947, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such as to General Motors Corporation (Electro-Motive Division) to the within and foregoing instrument, C. R. Osborn and F. H. Salvador, each to me personally known and known to me to be, respectively, a Vice President and an Assistant Treasurer of General Motors Corporation (Electro-Motive Division) one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Treasurer, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed, as such, and the said C. R. Osborn and F. H. Salvador, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said C. R. Osborn resides in the Village of Hinsdale, State of Illinois, and that the said F. H. Salvador resides in the Village of La Grange, State of Illinois; that said C. R. Osborn is a Vice President and said F. H. Salvador is an Assistant Treasurer of General Motors Corporation (Electro-Motive Division), one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Vice President and Assistant Treasurer, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Treasurer in behalf of said corporation by like authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of Cook, State of Illinois, this the day and year in this my certificate first above written.

.....James Sorna.....

My Commission Expires
January 12, 1950

STATE OF MINNESOTA, }
COUNTY OF RAMSEY. } ss.

I, Howard V. Rhedin, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 1st day of June, A. D. 1947, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such as to Great Northern Railway Company to the within and foregoing instrument, Edwin C. Matthias and F. L. Paetzold, each to me personally known and known to me to be respectively Vice President and Secretary of the Great Northern Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said Edwin C. Matthias and F. L. Paetzold, being by me severally duly sworn, did on oath, each for himself and not one for the other severally depose and say and acknowledge in the presence of said witnesses that the said Edwin C. Matthias resides in the City of St. Paul, State of Minnesota, and that the said F. L. Paetzold resides in the City of St. Paul, State of Minnesota; that said Edwin C. Matthias is Vice President and said F. L. Paetzold is Secretary of the Great Northern Railway Company, one of the

corporations described in and which executed the within and foregoing instrument in writing; that they, the said Vice President and Secretary know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of Ramsey, State of Minnesota, this the day and year in this my certificate first above written.

Howard V. Rhedin

HOWARD V. RHEDIN,
Notary Public, Ramsey County, Minn.
My Commission Expires Mar. 30, 1951.

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EXHIBIT 1

ASSIGNMENT

OF

CONDITIONAL SALE AGREEMENT

BETWEEN

GENERAL MOTORS CORPORATION
(ELECTRO-MOTIVE DIVISION)

AND

GREAT NORTHERN RAILWAY COMPANY

TO

.....

EXHIBIT 1

AGREEMENT, dated as of July 1, 1947, between GENERAL MOTORS CORPORATION, a corporation of the State of Delaware (Electro-Motive Division), hereinafter referred to as the "Manufacturer", party of the first part, and ....., a ...., with its principal place of business at ....., hereinafter referred to as the "Bank", party of the second part, and GREAT NORTHERN RAILWAY COMPANY, a corporation of the State of Minnesota, hereinafter referred to as the "Railroad", as party of the third part;

WHEREAS, the Manufacturer and the Railroad have entered into a Conditional Sale Agreement, hereinafter called the "Agreement", dated as of July 1, 1947, covering the construction, sale and delivery of ten (10) Diesel locomotives, hereinafter sometimes referred to as "locomotives", a description and number of locomotives and the estimated price per locomotive being as follows:

Number of Locomotives	Description	Railroad's Serial Numbers
2	1500-Horsepower Diesel Passenger Locomotives, Railroad's purchase order No. 43722, Manufacturer's order No. E-802, as described and warranted in Manufacturer's Specification 8002, dated July 10, 1945, as supplemented May 10, 1947, to be delivered in October, 1947, at an estimated price per locomotive of $149,196.00	230 and 231

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1 3000-Horsepower Diesel Passenger Locomotive, Railroad's purchase order No. 43720, Manufacturer's order No. E-800, consisting of one lead unit as described and warranted in Manufacturer's Specification 8002, dated July 10, 1945, and one booster unit as described and warranted in Manufacturer's Specification 8003, dated July 20, 1945, as supplemented May 7, 1947, to be delivered in October, 1947, at an estimated price of $280,429.00 261

2 3000-Horsepower Diesel Freight Locomotives, Railroad's purchase order No. 43719, General Motors' order No. E-799, as described and warranted in Manufacturer's Specification 8002, dated July 10, 1945, as supplemented May 6, 1947, to be delivered in October, 1947, at an estimated price per locomotive of $281,326.00 262 and 263

5 4500-Horsepower Diesel Passenger Locomotives, Railroad's purchase order No. 16396, Manufacturer's order No. E-819, each locomotive consisting of two lead units as described and warranted in Manufacturer's Specification 8002, dated July 10, 1945 and one booster unit as described and warranted in Manufacturer's Specification 8003, dated July 20, 1945, as supplemented May 9, 1947, to be delivered in December, 1947, at an estimated price per locomotive of $449,586.00 354 to 358 both inclusive

WHEREAS, after the payments to be made by the Railroad to the Manufacturer under paragraph (a) of Section 2 of said Agreement have been made, there will be a balance of $2,540,000.00 payable by the Railroad to the Manufacturer on account of the purchase price of said locomotives under paragraphs (b) and (c) of said Section 2 of said Agreement;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that in consideration of the sum of One Dollar ($1.00) in hand paid by the Bank to the Manufacturer, at or before the execution and delivery hereof, the receipt of which by the Manufacturer from the Bank is hereby acknowledged, and of the mutual covenants herein contained, the parties hereto do hereby covenant and agree as follows, to-wit:

1. The Manufacturer hereby sells, assigns, transfers and sets over unto the Bank, its successors and assigns, all the right, title and interest of the Manufacturer in and to the said locomotives from and after the delivery to, and acceptance thereof by, the Railroad, including the right to receive the payments provided for in said Agreement, and the right of assignment as provided by Section 3 of said Agreement, and subject to the provisions thereof, together with all the rights and subject to all the obligations in respect thereof set forth in the said Agreement as applying to the Manufacturer (Vendor) thereunder as therein defined, without any recourse, however, against the Manufacturer for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the pro-

visions of the said Agreement; *provided, however*, that this assignment shall not pass to the Bank the right to receive any of the payments to be made by the Railroad under paragraph (a) of Section 2 of said Agreement; *and provided, further* that this assignment shall not subject the Bank to, or transfer or pass, or in any way affect or modify, the liability of the Manufacturer, or of any successor or successors to its manufacturing property and business, in respect of its obligations to construct and deliver the locomotives, or as to any warranty or indemnity with respect thereto, contained in Sections 1 and 4 of said Agreement, it being understood and agreed that, notwithstanding this assignment, all said obligations of the Manufacturer to the Railroad in respect of the said locomotives shall be and remain enforceable by the Railroad, its successors and assigns, against and only against the Manufacturer, and any successor or successors to all or substantially all of its property and business, as in said Agreement provided. Without hereby limiting the generality of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Bank to sue for, collect and receive, in its own name, but at the expense and liability and for the sole benefit of the Bank, all sums payable, and likewise to enforce any and all action to be taken by the Railroad under said Agreement in respect of the locomotives described therein.

The Manufacturer represents and warrants to the Bank, its successors and assigns, that said Agreement was lawfully executed for a valid consideration; that it is a valid and existing contract, and, according to its terms, binding upon the parties thereto, and that it has secured and is prepared

to exhibit a statement of counsel of the Railroad that said Agreement and this Assignment have been or will be filed, registered, deposited and recorded in accordance with the provisions of Section 16 of said Agreement.

2. In consideration of the aforementioned assignment, and the agreement of the Railroad set out in Section 3 hereof, the Bank agrees to pay to the Manufacturer promptly upon receipt from the Manufacturer of an executed counterpart of the acceptance by the Railroad of the delivery of each locomotive under the terms of said Agreement, the amount shown below for each such locomotive:

Description	*Amount payable per locomotive*
1500-Horsepower Diesel Passenger Locomotives, each	$113,000.00
3000-Horsepower Diesel Passenger Locomotive	211,000.00
3000-Horsepower Diesel Freight Locomotive, each	209,000.00
4500-Horsepower Diesel Passenger Locomotives, each	337,000.00

The amounts to be so paid by the Bank to the Manufacturer will aggregate $2,540,000.00.

3. The Railroad agrees to pay to the Bank interest at the rate of .....percent (....%) per annum, at the times and under the conditions provided in paragraphs (b) and (c) of Section 2 of said Agreement from the 1st day of July, 1947.

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The Railroad also agrees to pay to the Manufacturer, upon receipt of invoice therefor, interest at the rate of ..... percent (....%) per annum on the amount hereinabove in Section 2 shown for each locomotive delivered, from the date of acceptance by the Railroad of delivery thereof to the date on which the Manufacturer receives payment of said amount from the Bank.

The term "interest" as used in this assignment means simple interest as distinguished from compound interest.

If as a result of any proceedings by or against the Manufacturer under the Bankruptcy Act, as now or hereafter existing, or as a result of the appointment of a receiver for the Manufacturer, or for any other reason, delivery of any of the locomotives described in the Agreement is not made, then and in that event the obligation of the Railroad to make payments of interest and monthly installments under paragraphs (b) and (c) of Section 2 of said Agreement shall be reduced by the amount hereinabove in Section 2 shown for any such undelivered locomotive and the Bank shall refund to the Railroad any payments theretofore made by the Railroad to the Bank in excess of the Railroad's obligation so reduced.

4. The Manufacturer covenants and agrees with the Bank that the Manufacturer is the lawful owner of the said locomotives and rights under said Agreement sold, assigned, transferred and set over, or intended to be sold, assigned, transferred and set over, to the Bank by this assignment; that the same are free from all liens or encumbrances; that the Manufacturer has good and lawful right to sell the same as aforesaid, and that the Manufacturer will warrant and de-

fend the same against the lawful demands of all persons whomsoever based on claims originating prior to the delivery of the said locomotives by the Manufacturer; all subject, however, to the provisions of the aforesaid Agreement, and the rights of the Railroad thereunder.

5. The Manufacturer covenants and agrees with the Bank, its successors and assigns, that, in any suit or action brought by the Bank under said Agreement for any instalment of the purchase price, or any part thereof, or to enforce any provisions of said Agreement, the Manufacturer will save, indemnify and keep harmless the Bank from and against all expense, loss or damage suffered by reason of any defense, set-off or counterclaim of the Railroad arising out of a breach by the Manufacturer, or any successor or successors to its manufacturing property and business, of any of the Manufacturer's obligations respecting said locomotives under the terms and conditions of said Agreement, or arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Manufacturer or successor or successors; provided, the Manufacturer or such successor is given due notice of such defense, set-off or counterclaim, and reasonable opportunity to defend against the same. The Manufacturer agrees to save, indemnify and keep harmless the Bank from and against any and all royalties, damages, claims, suits, judgments and costs that may arise from the use of any patented article, except with regard to any appliances, devices or materials specified by the Railroad and not manufactured by the Manufacturer.

6. As further assurance, the Manufacturer agrees that it will execute, acknowledge and deliver any and all further

instruments, including any further assignments, required by law or reasonably requested by the Bank, for the purpose of preservation of the rights, title, interests and benefits of the Bank hereunder, including the rights hereby assigned to receive payments under said Agreement, or for the purpose of carrying out the intention of this Agreement.

7. All rights and obligations hereunder shall be governed by the laws of .....

8. This Assignment may be simultaneously executed in two (2) or more counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced for all purposes by any such original counterpart. The Bank agrees to deliver one of such counterparts or a certified copy thereof to the Railroad.

IN WITNESS WHEREOF, The parties hereto, pursuant to due corporate authority, have caused this Assignment to be executed in their respective corporate names by their respective officers thereunto duly authorized, and their respective cor-

porate seals to be hereunto affixed, duly attested, as of the day and year first above written.

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

By .....
Vice President.

ATTEST:

.....
Asst. Treasurer.

Signed, sealed and delivered as to
General Motors Corporation (Electro-Motive
Division) in the presence of:

.....

.....
Witnesses.

.....

By .....

.....President.

ATTEST:

.....

Signed, sealed and delivered as to

.....

in the presence of:

.....

.....

Witnesses.

GREAT NORTHERN RAILWAY COMPANY

By .....

Vice President.

ATTEST:

.....

Secretary.

Signed, sealed and delivered as to
Great Northern Railway Company
in the presence of:

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Witnesses.

NOTE: Acknowledgments will be added.

State of Wisconsin }
DEPARTMENT OF STATE }

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