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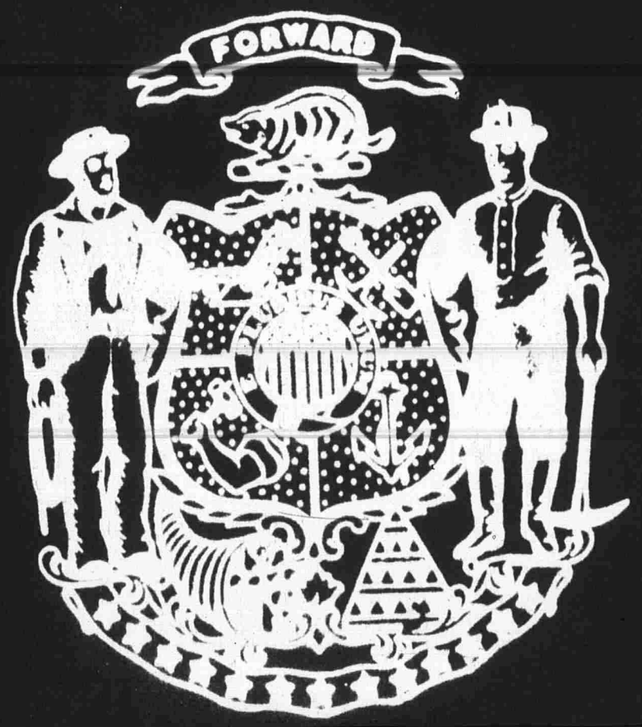
STATE OF WISCONSIN



SECRETARY OF STATE

RAILROAD MORTGAGES

VOL. 40

414.53

EXECUTED IN 65 COUNTERPARTS OF
WHICH THIS IS COUNTERPART NO. 19

THE CHESAPEAKE AND OHIO RAILWAY COMPANY

SUPPLEMENTAL INDENTURE

Dated June 6, 1947

TO

FIRST MORTGAGE AND DEED OF TRUST

of

PERE MARQUETTE RAILWAY COMPANY

Dated July 1, 1916

THIS SUPPLEMENTAL INDENTURE, dated as of the 6th day of June, 1947, by and between The Chesapeake and Ohio Railway Company, a corporation organized and existing under the laws of the Commonwealth of Virginia (hereinafter sometimes called "Chesapeake & Ohio"), party of the first part, and Bankers Trust Company, a corporation organized and existing under the laws of the State of New York (hereinafter sometimes called the "Corporate Trustee"), and R. G. Page, of Plainfield, in the State of New Jersey (hereinafter sometimes called the "Successor Individual Trustee"), the Corporate Trustee and the Successor Individual Trustee collectively being hereinafter sometimes called the "Trustees," parties of the second part,

WITNESSETH:

WHEREAS, Pere Marquette Railway Company, a corporation organized and existing under the laws of the State of Michigan (hereinafter sometimes called "Pere Marquette"), duly executed and delivered its First Mortgage and Deed of Trust dated July 1, 1916 (hereinafter sometimes called "the Mortgage"), to the Corporate Trustee and Hugh McK. Landon (hereinafter sometimes called the "Original Individual Trustee"), to secure bonds to be issued from time to time thereunder limited as to the aggregate principal amount at any one time outstanding of $75,000,000; and

WHEREAS, Pere Marquette has from time to time executed and delivered various supplemental indentures to the Mortgage, pursuant to the provisions of Section 1 of Article Three thereof, for the purpose of expressly subjecting to the lien of the Mortgage additional properties and rights therein acquired subsequent to the date of the Mortgage; and

WHEREAS, Pere Marquette likewise executed and delivered a certain Supplemental Indenture dated March 1, 1945, to the Corporate Trustee and the Original Individual Trustee, providing for the issuance under the Mortgage of $60,000,000 principal amount of First Mortgage 3⅜ Per Cent Bonds, Series D, the proceeds from the sale of $50,000,000 principal amount of which bonds were applied towards the redemption of all the bonds then outstanding under the Mortgage and the remaining $10,000,000 principal amount of which bonds were delivered to Pere Marquette's treas-

(Fee $3.50) 1

ury in exchange for certain other bonds theretofore issued under the Mortgage and then held in its treasury, and also providing, among other things, for the amendment of various provisions of the Mortgage which became effective upon the execution and delivery of said Supplemental Indenture; and

WHEREAS, of the $60,000,000 principal amount of Series D Bonds issued pursuant to the said Supplemental Indenture dated March 1, 1945, $49,138,000 principal amount of said bonds are outstanding in the hands of the public, $862,000 principal amount thereof have been retired through operation of the sinking fund provided for in said Supplemental Indenture, and $10,000,000 principal amount thereof are held in the treasury of Chesapeake & Ohio, the bonds last mentioned having been held in the treasury of Pere Marquette prior to its merger with Chesapeake & Ohio, hereinafter more fully described; and

WHEREAS, by appropriate instrument dated May 16, 1945, said Hugh McK. Landon resigned as Individual Trustee under the Mortgage and said R. G. Page was appointed his successor as Individual Trustee; and

WHEREAS, on this June 6, 1947, Pere Marquette has been merged into Chesapeake & Ohio, pursuant to the provisions of a certain Agreement of Merger executed by the Boards of Directors of Chesapeake & Ohio and Pere Marquette, and by said companies as well, on February 19, 1946, such merger having been consummated under and in pursuance of the applicable statutes of the Commonwealth of Virginia and the State of Michigan, with the approval and authorization of the Interstate Commerce Commission, embodied in the report and order of said Commission entered by Division 4 thereof on April 1, 1947, in Finance Docket No. 15228, which Agreement of Merger was this day filed with the Secretary of State of the State of Michigan and admitted to record in the office of the State Corporation Commission of Virginia; and

WHEREAS, by force of said Agreement of Merger and the applicable statutes of the Commonwealth of Virginia and the State of Michigan, all of the property, real and personal, and estates and interests therein, leases, leasehold interests, agreements, contracts, debts due on whatever account, things in action,

name, undertakings, rights, powers, franchises, privileges, and immunities, owned, held, or occupied by, or belonging to, Pere Marquette have been automatically conveyed, transferred, and set over to, and vested in, Chesapeake & Ohio, thus becoming as effectually the property of Chesapeake & Ohio as they were of Pere Marquette; and

WHEREAS, likewise by force of said Agreement of Merger and the applicable statutes of the Commonwealth of Virginia and the State of Michigan, Chesapeake & Ohio has assumed and become responsible for the prompt and punctual performance of all obligations, liabilities, duties, covenants, and conditions of Pere Marquette, including all such obligations, liabilities, duties, covenants, and conditions of Pere Marquette arising in connection with the Mortgage and supplements thereto, and all of the bonds outstanding thereunder; subject, however, to the right of Chesapeake & Ohio to make any and all defenses against all claims and demands arising out of such obligations, liabilities, duties, covenants, and conditions that Pere Marquette might have been entitled to assert in the premises; and

WHEREAS, Chesapeake & Ohio desires by this instrument to confirm such assumption of obligations, liabilities, duties, covenants, and conditions in respect of the Mortgage and the supplements thereto, and the bonds outstanding thereunder, in accordance with the provisions of Section 1(f) of Article Three and Section 1 of Article Thirteen of the Mortgage, as amended, and desires to evidence its succession to the rights of Pere Marquette under the Mortgage, as amended; and

WHEREAS, it is desired that property which is now subject to the lien of the Mortgage and property which is to be acquired from time to time hereafter and made subject to the lien of the Mortgage have a separate identity from other property now owned by Chesapeake & Ohio or which may be acquired from time to time hereafter by Chesapeake & Ohio and which is not, and will not be, subject to the lien of said Mortgage, it being the intent of the parties hereto to reaffirm the Mortgage in all respects as amended and to render readily identifiable the property subject to the lien of the Mortgage and to make certain the application of the provisions of the Mortgage thereto.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That, in consideration of the premises and of the sum of One Dollar ($1.00) and other good and valuable considerations by each of the parties hereto in hand paid to the other, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

FIRST: Chesapeake & Ohio, for the equal pro rata use, benefit, and security of all persons, firms, or corporations who or which are now or shall become or be the owners or lawful holders of any of the bonds issued under and secured by the Mortgage and the supplements thereto, hereby expressly assumes the due and punctual payment of the principal and interest of all said bonds in accordance with their terms, and the prompt and punctual performance of all of the covenants and conditions of the Mortgage and the supplements thereto.

SECOND: It is recognized by the parties hereto that the lines of railway, together with the rolling stock, floating equipment, and other properties subject to the lien of the Mortgage and the supplements thereto and acquired by the Chesapeake & Ohio through merger of Pere Marquette into it constitute a well defined unified operating railroad system, and it is mutually understood and agreed that the right, title, and interest of Chesapeake & Ohio in any and all extensions, betterments, improvements, rolling stock, floating equipment, replacements, leases, operating rights, trackage contracts and agreements, and other acquisitions, which shall be appurtenant to or used exclusively or primarily in the operation of said system, that may from time to time hereafter be made, constructed, or otherwise acquired by the Chesapeake & Ohio shall forthwith be and become subject to a first lien under the Mortgage and the supplements thereto. The Trustees hereby disclaim any lien, as such Trustees, in respect of any and all lines of railway and other property of Chesapeake & Ohio, and all appurtenances thereto, now in any manner owned or controlled, or hereafter in any manner acquired or controlled, by Chesapeake & Ohio which do not constitute a part of, or become an appurtenance to, the aforesaid system.

THIRD: If Chesapeake & Ohio should hereafter place its name on any of the locomotives, tenders, cars, and other rolling equip-

ment (hereinafter sometimes called "equipment"), subject to the lien of the Mortgage and supplements thereto, or should place on such equipment any other marking indicative of its ownership thereof or its interest therein, in substitution of the present marking indicating Pere Marquette ownership, it shall plainly mark the equipment, and maintain such marking, so that said equipment shall be distinguishable from other equipment owned by Chesapeake & Ohio which is not subject to the lien of the Mortgage and be readily identified as property which is subject to the lien of the Mortgage and supplements thereto.

FOURTH: Upon the release of any equipment from the lien of any existing Pere Marquette Equipment Trust or Conditional Sales Agreement, upon the release from the lien of any future Equipment Trust or Conditional Sales Agreement of equipment used exclusively or primarily in the operation of aforesaid system, and upon the future purchase, free of vendor's lien, of equipment for use exclusively or primarily in the operation of said system, Chesapeake & Ohio shall plainly mark such equipment, and maintain such marking, so that said equipment shall be distinguishable from other equipment owned by Chesapeake & Ohio which is not subject to the lien of the Pere Marquette Mortgage and be readily identified as property which is subject to the lien of said Mortgage.

This indenture has been simultaneously executed 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.

IN WITNESS WHEREOF, The Chesapeake and Ohio Railway Company, party hereto of the first part, has caused this indenture to be signed and acknowledged or proved by its President or a Vice-President, and its corporate seal to be hereunto affixed and to be attested by the signature of its Secretary or an Assistant Secretary, and Bankers Trust Company, one of the parties hereto of the second part, has caused this indenture to be signed and acknowledged or proved by its President or one of its Vice-Presidents, and its corporate seal to be hereunto affixed and to be attested by the signature of its Secretary or an Assistant Secretary, and R. G. Page, the other of the parties hereto of the second part, has here-

unto set his hand and seal, all as of the day and year first above written.

THE CHESAPEAKE AND OHIO RAILWAY COMPANY

Attest:

H. F. LOHMEYER, *Secretary.*

By R. S. MARSHALL, *Senior Vice President.*

Signed, sealed and delivered as to The Chesapeake and Ohio Railway Company in the presence of:

G. P. McKinley (G.P. McKinley)

T. H. Keelor (T.H. Keelor)

BANKERS TRUST COMPANY

Attest:

A. R. Ince
Assistant Secretary.
(A.R. Ince)

By E. E. Beach
Vice President.
(E.E. Beach)

Signed, sealed and delivered as to Bankers Trust Company in the presence of:

R. C. Connolly (R.C. Connolly)

J. C. Kennedy (J.C. Kennedy)

(L. S.)
R. G. PAGE

Signed, sealed and delivered as to R. G. Page in the presence of:

R. C. Connolly

J. C. Kennedy

STATE OF OHIO,
COUNTY OF CUYAHOGA, SS.:

I, ALLAN G. LEJA, a notary public in and for the county and state aforesaid, do hereby certify that on the 6th day of June, 1947, before me personally came and appeared R. S. Marshall and H. F. Lohmeyer, to me personally known and known to me to be the Senior Vice-President and Secretary, respectively, of The Chesapeake and Ohio Railway Company and the same persons whose names are subscribed to the foregoing instrument, dated June 6, 1947, who, being by me duly sworn according to law, did severally depose, say, and acknowledge that he the said R. S. Marshall resides at 20776 Brantley Road, Shaker Heights, Ohio, that he the said H. F. Lohmeyer resides at 18003 Fernway Road, Shaker Heights, Ohio; that he the said R. S. Marshall is the Senior Vice-President; and he the said H. F. Lohmeyer is Secretary of The Chesapeake and Ohio Railway Company, one of the corporations described in and which executed the foregoing instrument; that they know the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and that they signed their names thereto by like authority; and said R. S. Marshall and H. F. Lohmeyer duly and severally acknowledged that they signed, sealed, and delivered said instrument as their own free and voluntary act and deed, personally and as such officers, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal at Cleveland, Ohio, the day and year in this certificate first above written.

Allan G. Leja
Allan G. Leja,
Notary Public.

My commission expires June 10, 1948.

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STATE OF NEW YORK,
COUNTY OF NEW YORK, ss.:

I, Eugenie A. Richards, a notary public in and for the county and state aforesaid, do hereby certify that on the 10th day of June, 1947, before me personally came and appeared E. E. BEACH, and G. R. INCE, to me personally known and known to me to be Vice-President and Assistant Secretary, respectively, of Bankers Trust Company and the same persons whose names are subscribed to the foregoing instrument, dated June 6, 1947, who, being by me duly sworn according to law, did severally depose, say, and acknowledge that he the said E. E. BEACH resides at 47 HILLCREST AVENUE, SUMMIT, N. J.; that he the said G. R. INCE resides at 115 SACKVILLE ROAD GARDEN CITY, N. Y.; that he the said E. E. BEACH is Vice-President, and he the said G. R. INCE is an Assistant Secretary, of Bankers Trust Company, one of the corporations described in and which executed the foregoing instrument; that they know the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and that they signed their names thereto by like authority; and said E. E. BEACH and G. R. INCE duly and severally acknowledged that they signed, sealed, and delivered said instrument as their own free and voluntary act and deed, personally and as such officers, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal at New York, New York, the day and year in this certificate first above written.

Eugenie A Richards
Notary Public.

My commission expires .....

EUGENIE A. RICHARDS
NOTARY PUBLIC, State of New York
Appointed & Residing in Suffolk County
Certificates Filed in
N. Y. Co. Clk's No. 662, Reg. No. 715-R-8
Commission Expires March 30, 1948

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STATE OF NEW YORK,
COUNTY OF NEW YORK, ss.:

I, Eugenie A. Richards, a notary public in and for the county and state aforesaid, do hereby certify that on the 10th day of June, 1947, before me personally came and appeared R. G. Page, to me personally known and known to me to be the same person who executed the foregoing instrument, dated June 6, 1947, who, being by me duly sworn according to law, did depose, say, and acknowledge that he resides at 735 Belvidere Avenue, Plainfield, New Jersey; and said deponent did further depose, say, and acknowledge that he executed, signed, sealed and delivered the foregoing instrument as his free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal at New York, New York, the day and year in this certificate first above written.

Eugenie A Richards
Notary Public.

My commission expires .....

EUGENIE A. RICHARDS
NOTARY PUBLIC, State of New York
Appointed & Residing in Suffolk County
Certificates Filed in
N. Y. Co. Clk's No. 662, Reg. No. 715-R-8
Commission Expires March 30, 1948

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STATE OF OHIO,
COUNTY OF CUYAHOGA, ss.:

R. S. MARSHALL, being duly sworn, deposes and says: That he is Senior Vice President of The Chesapeake and Ohio Railway Company, the party of the first part mentioned and described in the foregoing Supplemental Indenture to Bankers Trust Company and R. G. Page, Trustees; that The Chesapeake and Ohio Railway Company is successor by merger to Pere Marquette Railway Company; that said Supplemental Indenture was executed as a supplement to the First Mortgage and Deed of Trust, dated July 1, 1916, executed by Pere Marquette Railway Company to Bankers Trust Company and Hugh McK. Landon, Trustees, as amended and supplemented; that said Supplemental Indenture and said First Mortgage and Deed of Trust, as amended and supplemented, were made to secure not to exceed $75,000,000.00 principal amount of First Mortgage Bonds of Pere Marquette Railway Company; that $75,000,000.00 of First Mortgage Bonds of Series A, B, and C have heretofore been issued under said Mortgage and that all of said bonds have been retired or provision made satisfactory to the Corporate Trustee for the retirement thereof; that pursuant to the terms of said First Mortgage and Deed of Trust and the Supplemental Indenture thereto dated March 1, 1945, $60,000,000.00 principal amount of Series D Bonds have been issued, of which $49,138,000.00 of said bonds are outstanding in the hands of the public, and $10,000,000.00 are held in the treasury of The Chesapeake and Ohio Railway Company and may be sold or pledged at some future time and that the sum of $59,138,000.00 was the total amount secured by said First Mortgage and Deed of Trust, as amended and supplemented, and the foregoing Supplemental Indenture dated June 6, 1947; that the remainder of the First Mortgage Bonds may (but need not) be issued under said mortgage at some time in the future subject to the terms and conditions as set forth in said First Mortgage and Deed of Trust, as amended and supplemented; and that the consideration of said First Mortgage and Deed of Trust, as amended and supplemented, and the foregoing Supplemental Indenture was actual and adequate, that the same was given in good faith for the purposes in such instruments set forth, and that he has knowledge of said facts.

R S Marshall

Sworn to before me this 6th day of June, 1947.

Allan G Leja

Allan G. Leja, *Notary Public.*

My commission expires June 10, 1948.

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 28TH day of JUNE A. D. 1947 at 10:00 o'clock A. M. and recorded in Vol. 40 of RAILROAD MORTGAGES on page 1-6.
Fred R. Zimmerman
SECRETARY OF STATE

COUNTERPART
No. 5 OF 10

ASSIGNMENT

OF

CONDITIONAL SALE AGREEMENT

BETWEEN

GENERAL MOTORS CORPORATION
(ELECTRO-MOTIVE DIVISION)

AND

GREAT NORTHERN RAILWAY COMPANY

TO

MELLON NATIONAL BANK AND TRUST COMPANY

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 MELLON NATIONAL BANK and TRUST COMPANY, a National banking association, with its principal place of business at Pittsburgh, Pennsylvania, 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	

(Fee $4.50)

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	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-

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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 one and 69/100 percent (1.69%) 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 one and 69/100 percent (1.69%) 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 the Commonwealth of Pennsylvania.

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 O. K. Dixon
Vice President.

ATTEST:

Asst. Treasurer.

Signed, sealed and delivered as to General Motors Corporation (Electro-Motive Division) in the presence of:

H. R. Dorent

M. Fairtrace

Witnesses.

MELLON NATIONAL BANK AND TRUST COMPANY

By E. B. Blackburn
Vice President.

ATTEST:

E. D. Hayes
Secretary.

Signed, sealed and delivered as to Mellon National Bank and Trust Company in the presence of:

C. J. Robinson

C. L. Neely

Witnesses.

GREAT NORTHERN RAILWAY COMPANY

By V. P. Turnbuske
Vice President.

ATTEST:

F. L.
Secretary.

Signed, sealed and delivered as to Great Northern Railway Company in the presence of:

Clarence A. Smith

C. T. Bregahan

Witnesses.

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 19th 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

COMMONWEALTH OF PENNSYLVANIA, }
COUNTY OF ALLEGHENY. } ss.

I, Robert Kane, a Notary Public in and for the Commonwealth 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 30th 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 Mellon National Bank and Trust Company to the within and foregoing instrument, F. G. Blackburn and E. D. Hayes, each to me personally known and known to me to be respectively Vice President and Secretary of the Mellon National 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 Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said F. G. Blackburn and E. D. Hayes, 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. Blackburn resides in the City of Pittsburgh, Commonwealth of Pennsylvania, and that the said E. D. Hayes resides in the Township of Mt. Lebanon, Commonwealth of Pennsylvania; that said F. G. Blackburn is Vice President and said E. D. Hayes is Secretary of the Mellon National 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 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 Allegheny, Commonwealth of Pennsylvania, this the day and year in this my certificate first above written.

Robert Kane
Notary Public

My Commission expires
January 24, 1951

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 16th 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, V. P. Turnburke 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 V. P. Turnburke 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 V. P. Turnburke 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 V. P. Turnburke 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. 1, 1951.

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 7TH day of
JULY A. D. 1947 at 10:00
o'clock A.M. and recorded in Vol.
40 of RAILROAD MORTGAGES
on page 7-16, INCL.
Fee $23.00
Theodore Kuckkuhn
Secretary of State

Executed in 20
Counterparts
Counterpart No 5

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD EQUIPMENT TRUST,
SERIES Z

Lease of Railroad Equipment

DATED AS OF JULY 1, 1947.

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO
TO
CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

Agreement

DATED AS OF JULY 1, 1947.

PAUL B. ROBB AND H. J. GROENER,
VENDORS
WITH
CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO,
AND
CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

THE DONNELLEY-WARREN PRINTING COMPANY, 310 WEST JACKSON, CHICAGO

LEASE OF RAILROAD EQUIPMENT, dated as of July 1, 1947, between **CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO**, a corporation duly organized and existing under the laws of the United States of America, Trustee, as hereinafter mentioned (hereinafter called the Trustee), party of the first part, and **CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY**, a corporation duly organized and existing under the laws of the State of Wisconsin (hereinafter called the Railroad Company), party of the second part:

WHEREAS, by certain agreement, dated as of July 1, 1947, between Paul B. Robb and H. J. Groener, Vendors, Continental Illinois National Bank and Trust Company of Chicago, as Trustee, and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a counterpart original whereof is hereto annexed and made a part hereof, there was constituted "Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series Z," and 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 Railroad Company hereunder; and

WHEREAS, pursuant to the provisions of said Agreement, the railroad equipment hereinafter described 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:

That the Trustee, acting in pursuance of said Agreement, for and in consideration as well of the sum of One Dollar to it paid by the Railroad Company at or before the ensealing and delivery hereof, the receipt of which is hereby acknowledged, as of the rents and covenants hereinafter mentioned to be paid, kept and performed by the Railroad

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Company, has let and leased, and does hereby let and lease, to the Railroad Company all the railroad equipment of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series Z (which together with the additional and substituted equipment and replacements as herein and in said Agreement provided are hereinafter and in said Agreement collectively called the Trust Equipment), to wit:

FREIGHT TRAIN CARS.

749 40'6", 50 ton, all steel, box cars, Nos. 23188 to 23836, inclusive, and Nos. 23838 to 23937, inclusive,
250 50'6", 50 ton, all steel, automobile cars equipped with loading devices, Nos. 14,000 to 14,249, inclusive,

999

PASSENGER TRAIN CARS.

6 mail-express cars, all steel, Nos. 1208 to 1213, inclusive,
6 baggage-dormitory cars, all steel, Nos. 1309 to 1314, inclusive,
6 combination coach and sleepers, all steel, Nos. 5770 to 5775, inclusive,
18 coaches, all steel, Nos. 480 to 497, inclusive,
6 diners, all steel, Nos. 115 to 120, inclusive,
6 lunch-lounge cars, all steel, Nos. 162 to 167, inclusive,
2 diner-lounge cars, all steel, Nos. 168 and 169,
12 sleepers, all steel, (all named)*,

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*Tama	*Tekoa	*Troxel
Tanwax	Thelma	Tulare
Taopi	Thorp	Tunis
Tarkio	Titus	Tyndall

together with such additional or substituted railroad equipment as may be acquired for said Trust and subjected to this Lease, as herein and in the Agreement provided.

The cost of all said equipment is estimated by the Railroad Company to be not less than $8,000,000.

In the event that the Vendors shall, as provided in Section 5 of Article I of the Agreement, acquire other new, standard gauge railroad rolling stock in substitution for, or in addition to, the original Trust Equipment above specifically described, such other new, standard gauge railroad rolling stock shall be included as part of the Trust Equipment and shall be subject to all the terms and conditions of this Lease and of the Agreement in all respects as though it had been part of the original Trust Equipment herein described.

As and when the Trust Equipment shall from time to time be transferred and delivered to the Trustee under said Agreement, the same shall be delivered to the Railroad Company, and shall upon such delivery to the Railroad 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 Railroad Company hereunder, in all respects as if the same had been so delivered simultaneously with the execution and delivery hereof.

And the Railroad Company, in consideration of the premises, by these presents covenants and agrees with the Trustee as follows:

First. The cost of the Trust Equipment, whenever used herein or in said Agreement, shall mean the cost of the purchase or construction of the Trust Equipment and shall consist solely of items which may properly be included in such cost under the investment accounting rules of the Interstate Commerce Commission.

The Railroad Company hereby accepts (subject to the conditions mentioned in said Agreement) 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 the Railroad Company covenants and agrees to pay to the Trustee or its assigns (or in the case of taxes to the proper taxing authority) rent hereunder which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable:

(a) From time to time, at or before the delivery of any of the Trust Equipment to the Railroad Company as advance rental, amounts in cash equal to not less than twenty-five per cent (25%) of the cost of the Trust Equipment so delivered, as certified to the Trustee.

(b) If seventy-five per cent (75%) of the aggregate cost of all of the Trust Equipment which shall then and theretofore have been delivered hereunder shall exceed $6,000,000, an amount in cash as advance rental, which, with all other payments previously made under the foregoing clause (a) and this clause (b), shall equal the difference between $6,000,000 and the aggregate cost of all Trust Equipment which then and theretofore shall have been delivered hereunder as aforesaid.

(c) The necessary and reasonable expenses of the trust, including the proper compensation of the Trustee and its counsel for their services and all expenses and liabilities connected with the Trust Equipment and this Lease thereof.

(d) Any and all taxes, assessments and other governmental charges upon the income or property of the trust, or said Agreement evidencing the same, which the Trustee by law may be required to pay, and any and all taxes, assessments and other governmental charges (other than Federal Income Taxes) which the Railroad Company or the Trustee may be required to pay or to retain from the principal of the Trust Certificates issued as provided in said Agreement (herein called the Trust Certificates) or from the dividends thereon, under any present or future law of the United

States of America or any state, county, municipality or other lawful taxing authority therein.

(e) The dividend warrants attached to and the dividends payable on the Trust Certificates when and as the same shall become payable.

(f) The principal of the Trust Certificates when and as the same shall become 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, interest on such unpaid dividends, dividend warrants and principal at the same rate per annum as provided in the dividend warrants.

(h) If the Trustee shall invest funds of the Trust in United States Government securities, as provided in the Agreement, the amount, if any, by which the selling price of said securities including any accrued interest and premium plus any interest paid to the Trustee on such securities is less than the purchase price thereof including any accrued interest and premium.

The Railroad Company shall not be required, however, to pay any tax, assessment or other governmental charge, so long as the Railroad 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 Trust Certificate holders may be materially endangered.

All rentals payable hereunder shall be payable at the principal office of the Trustee in the City of Chicago, State of Illinois, in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts.

Anything herein contained to the contrary notwithstand-

ing, the Trustee shall, for all purposes of this Lease and said Agreement, accept as the cost of any of the Trust Equipment the respective amounts certified to it pursuant to, or in like manner as required by subdivision (b) of Section 4 of Article I of said Agreement. In case any certificate furnished pursuant to said subdivision (b) of said Section 4 or of this Lease shall state that the cost of the equipment therein referred to is tentatively determined subject to final adjustment, such certificate shall nevertheless be accepted and acted upon, pending adjustment.

Second. This Lease shall continue in force until the rent so paid hereunder shall furnish moneys sufficient to meet, discharge and cancel all the interests in said Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series Z, created in respect of the Trust Equipment, and the dividends thereon, as well as the other payments and charges aforesaid. At the termination of this Lease and after all such payments required hereby shall have been completed and fully made to the Trustee, the Trust Equipment hereby leased, whether the same shall be delivered to the Railroad Company simultaneously with or after the execution hereof, shall at the option of the Railroad Company be assigned and transferred by the Trustee to the Railroad Company or its nominee or nominees and shall thereupon be and become the absolute property of the Railroad 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 Railroad Company but title to and ownership of all the Trust Equipment shall be reserved to and remain in the Trustee, notwithstanding the delivery of the Trust Equipment to, and the possession and use thereof by, the Railroad Company.

Third. Upon the written request of the Railroad Company, signed by the President or the Vice-President

and Comptroller of the Railroad Company, stating that the use of any of the Trust Equipment, by reason of its character or the business of the Railroad Company, is no longer profitable to, or required by the Railroad Company, the Trustee may, in its sole discretion, while the Railroad Company is not in default hereunder, execute and deliver a bill of sale assigning and transferring to a purchaser or purchasers found by the Railroad Company the absolute title to such of the Trust Equipment; provided, however, that none of the Trust Equipment shall be so assigned or transferred unless simultaneously with the delivery of such bill of sale the Trustee shall receive from such purchaser or purchasers the agreed purchase price thereof and from the Railroad Company a sum in cash equal to the amount, if any, by which the cost determined as herein provided of the Trust Equipment so assigned and transferred, less depreciation, exceeds said purchase price. For all purposes of this Lease and said Agreement, depreciation on the Trust Equipment, or any thereof, shall not exceed an amount equal to $\frac{1}{4}$ of 1 per cent of the cost thereof, determined as herein provided, for each calendar month between the date of delivery of such Trust Equipment to the agent of the Trustee and the date as of which depreciation is to be determined. Simultaneously with the delivery of such written request of the Railroad Company there shall also be delivered to the Trustee a certificate of the President or the Vice-President and Comptroller of the Railroad Company, stating the amount of such agreed purchase price of the Trust Equipment to be assigned and transferred and the amount of such depreciation (not in excess of the amount above stated) accrued upon such Trust Equipment. The sums so paid to the Trustee shall be held by it in trust for the equal and proportionate benefit of the bearers of the Trust Certifi-

cates and dividend warrants, until paid out by the Trustee upon like written request of the Railroad Company for the purchase by the Trustee of new standard gauge railroad rolling stock, free from liens, except the liens, if any, of the First Mortgage and/or of the General Mortgage of the Lessee on such right, title and interest as the Railroad Company may have in or to such rolling stock and which shall be in all respects subordinate to the right, title and interest of the Trustee therein and thereto, and upon the delivery of such new equipment to the Trustee accompanied by a bill or bills of sale, warranty or warranties, an opinion of counsel and a certificate as to delivery and cost in like manner as is provided in Section 4 of Article I of said Agreement. Any new equipment so acquired and substituted shall be marked in accordance with the provisions of Article Fourth hereof and immediately upon being so marked shall be part of the Trust Equipment, subject to all of the terms and conditions hereof and of said Agreement in all respects as though it had been part of the original Trust Equipment herein described, and the Railroad Company and the Trustee shall execute, and the Railroad Company shall file and/or record as required by law, a supplemental lease thereof, describing the same, upon and subject to all the terms and conditions hereof. The term "Trust Equipment," wherever used herein, unless otherwise indicated by the context, is intended to include any new equipment so acquired or otherwise subjected to this Lease or required or intended so to be.

Fourth. Prior to the delivery of any of the Passenger Train Cars constituting the Trust Equipment, and as to the Freight Train Cars constituting the Trust Equipment as promptly as reasonably can be done, following the date of this Lease, but in any event not later than one year thereafter, there shall be plainly, distinctly, permanently

and conspicuously placed and fastened upon each side of each unit of the Trust Equipment a metal plate bearing the following words, with appropriate changes thereof or additions thereto as from time to time may be required by law in order to protect the interest of the Trustee, or such words shall be otherwise plainly, distinctly, permanently and conspicuously marked on each side of each thereof, in either case in letters not less than one-half inch in size:

> "Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series Z, Continental Illinois National Bank and Trust Company of Chicago, Trustee, Owner and Lessor."

The Railroad Company will certify to the Trustee, monthly, the numbers of such Freight Train Cars which have been so marked and the character of such marking.

Such plate or marks shall be such as to be readily visible and as to indicate plainly the Trustee's ownership of said 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 Railroad Company will immediately cause the same to be restored or replaced. The Railroad Company will not change, or permit to be changed, the numbers upon equipment covered by this Lease (nor any numbers which may be substituted as herein provided), except in accordance with a statement of new numbers to be substituted therefor, which shall previously have been filed with the Trustee by the Railroad Company. In any such case, if the same be feasible, or necessary, the Railroad Company will at its expense cause to be made such notation on or addition to the record of this Lease as may be proper to preserve or protect the record title of the Trustee to such equipment.

The Trust Equipment may be lettered, "Chicago, Milwaukee, St. Paul and Pacific Railroad," "St. Paul," "Mil-

waukee," "C. M. St. P. & P. R. R.," or in some other appropriate manner, for convenience of identification of the leasehold interest of the Railroad Company, its successor or successors therein, but the Railroad 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 Railroad Company or by any person, association or corporation, other than the Trustee.

Fifth. (a) The Railroad Company, during the continuance of this Lease, will maintain and keep, at its own cost and expense, all of the Trust Equipment in good order and repair (the damage to be made good including, without limitation, damage by collision, fire or explosion), and will replace, at its own cost, any of the Trust Equipment that may be worn out, lost, destroyed or rendered unfit for use, by new standard gauge railroad rolling stock of substantially as good material, construction and of equal value, the value of the new rolling stock to be figured at cost, determined as provided in Article First hereof, if that be below market value, or at market value if that be below such cost. For the purpose of this Article Fifth the value of such replaced equipment shall be taken to be the cost thereof, determined as provided in Article First hereof, less depreciation accrued thereon, computed as provided in Article Third hereof. The title to all rolling stock procured for such replacement shall be taken in the name of the Trustee, free from liens, and such rolling stock shall be marked in accordance with the provisions of Article Fourth hereof. At the time of every such replacement the Railroad Company shall deliver to the Trustee a certificate of the President or the Vice-President and Comptroller or an Assistant Comptroller of the Railroad Company, stating the value of the Trust Equipment so worn out,

lost, destroyed or rendered unfit for use, determined as herein provided, and the cost and the reasonable market value of the equipment with which it is replaced, together with a bill or bills of sale, warranty or warranties, an opinion of counsel and a certificate as to delivery, in like manner as is provided in Section 4 of Article I of said Agreement.

Thereupon, such new equipment shall be deemed a part of the Trust Equipment, subject to all the terms and conditions hereof and of said Agreement, as though it had been originally a part of the Trust Equipment; but the Trustee and the Railroad Company shall execute a supplemental lease thereof, describing the same, upon and subject to all of the terms and conditions hereof.

(b) The Railroad Company will during the continuance of this Lease keep all of the Trust Equipment insured against loss or damage by fire, and against other loss or damage the risk of which is customarily insured against by railroad companies, in such manner and to such proportion of the value thereof as is customarily insured by railroad companies. All of such insurance shall be payable to the Trustee as Trustee, Owner and Lessor and shall be in an insurance company or companies satisfactory to the Trustee. All the insurance premium or premiums shall and will be paid by the Railroad Company, and, in default of the Railroad Company keeping such Trust Equipment so insured, the Trustee without impairment of its rights and remedies by reason of such default may make appropriate insurance from time to time and pay the premium or premiums therefor, but it shall not be required so to do, and in such event the Railroad Company shall and will pay to the Trustee the amount of the premium or premiums so paid, with interest at the rate of 6 per cent per annum from the time of payment. In case the Railroad Company fails to make and maintain such insurance and the Trustee in-

sures the Trust Equipment or any part thereof as above provided, the title to the Trust Equipment shall, notwithstanding the making of all other payments hereunder or under said Agreement to be made by the Railroad Company, remain in the Trustee until the repayment of the amount so paid for insurance with interest from the time of payment, and the repayment of such amount is hereby expressly made one of the obligations to be performed before title to the Trust Equipment shall vest in the Railroad Company.

Any insurance moneys paid to the Trustee on account of any loss in respect of the Trust Equipment covered by insurance shall be held and retained by the Trustee, in trust for the equal and proportionate benefit of the holders of the Trust Certificates and dividend warrants attached thereto, until the replacement or repair, as provided in subdivision (a) of this Article, of the Trust Equipment covered by such insurance. Upon proof satisfactory to the Trustee of the proper replacement or repair of said Trust Equipment, said insurance moneys received by the Trustee shall be applied by the Trustee to the payment of the cost of such replacement or repair or to reimburse the Railroad Company, to the extent of such funds, for payments made by it in respect of such replacement or repair. A certificate in behalf of the Railroad Company by its President or Vice-President and Comptroller or Assistant Comptroller as to the proper replacement or repair of said Trust Equipment, free from lien, shall be full and complete protection to the Trustee.

(c) The Railroad Company covenants and agrees to furnish to the Trustee, whenever required by the Trustee, and at least once in every year during the continuance of this Lease, an accurate statement, signed by the President, or the Vice-President and Comptroller

of the Railroad Company, of the amount, description and numbers of the Trust Equipment then covered hereby, and the amount, description and numbers of all that may have been worn out, lost, destroyed or rendered unfit for use by accident or otherwise, and the number of units of Trust Equipment repaired during the previous year, and the number of units then undergoing repairs and in the shops for repairs, and the repairs needed on any of the Trust Equipment, specifying the Trust Equipment so in need of repair, classifying the repairs so needed according to a standard classification of repairs, in so far as practicable. Together with said statement the Railroad Company shall also furnish to the Trustee a statement signed by its Superintendent Car Department or an Assistant Superintendent Car Department, stating that in the case of all of the Trust Equipment repainted during the preceding year, the marks required by Article Fourth hereof have been preserved, or that the same when repainted has been again marked as required by said Article. The Trustee shall have the right, by its agents, (but shall not be obligated) to inspect the Trust Equipment once in every year during the continuance of this Lease.

(d) The Railroad Company covenants and agrees to indemnify and protect the Trustee in the use of any and all patented inventions employed in and about the Trust Equipment and to comply in all respects with the laws of the United States and of all the states in which the Trust Equipment or any thereof may be operated and with all lawful acts, rules, regulations and orders of the Interstate Commerce Commission and of all other commissions, boards and other legislative, executive or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including, but without limitation, all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or

attachments, air brakes or other appliances; provided, however, that the Railroad Company may in good faith contest the validity of any such act, rule, regulation or order or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not, in the judgment of the Trustee, materially endanger the rights or interests of the Trustee or of the bearers of the Trust Certificates.

Sixth. The Railroad Company, so long as it shall not be in default under this Lease, shall be entitled to the possession of the Trust Equipment and the use thereof upon the lines of railroad owned by it or operated by it under lease or otherwise, or over which it has trackage rights, and upon those of any railroad company a majority of whose capital stock is at the time owned or controlled by the Railroad Company, and also upon connecting and other railroads in the usual interchange of traffic, from and after the delivery of the Trust Equipment by the Trustee to the Railroad Company, but only upon and subject to all the terms and conditions of this Lease.

The Railroad Company will not either assign or transfer this Lease, or transfer or sublet the Trust Equipment or any part thereof, without the written consent of the Trustee first had and obtained; and the Railroad Company shall not, without such written consent, except as hereinbefore provided, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment.

Seventh. In case the Railroad Company

(1) shall make default in the payment of any part of said rent and such default shall continue for more than thirty (30) days after the same shall become due and payable, or

(2) shall make or suffer any unauthorized assign-

ment or transfer of its rights or interest in, or any unauthorized sublease of, or, except as herein authorized, part with the possession of, the Trust Equipment, or any thereof, and shall fail or refuse either to cause such assignment or transfer or sublease to be canceled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within thirty days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said thirty days to deposit with the Trustee a sum in cash equal to the actual cost of the Trust Equipment so assigned or transferred or subleased, or the possession of which shall have been so parted with, as certified to the Trustee pursuant to Section 4 of Article I of said Agreement, (any sum so deposited to be returned to the Railroad Company upon the cancellation of such assignment, transfer or sublease, and the recovery of possession by the Railroad Company of such Trust Equipment in good condition, subject to ordinary usage as certified to the Trustee by the President or the Vice-President and Comptroller or the Assistant Comptroller of the Railroad Company), or

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

then, in any such case (herein and in said Agreement sometimes called events of default) the Trustee may, and upon the request in writing of the bearers of not less than 20 per cent in principal amount of the Trust Certificates at the time outstanding shall, declare this Lease terminated. The election of the Trustee to terminate this Lease under this clause shall have the same effect as the retaking of the Trust Equipment by the Trustee as hereinafter provided. Upon the happening of an event of default, the Trustee may also, by its agents, enter upon the railroads and prem-

ises of the Railroad Company and take possession of all or any part of the Trust Equipment, and withdraw the same from said railroads and premises, retaining all payments which up to that time may have been made on account of rental for the Trust Equipment and otherwise, and shall be entitled to collect, receive and retain all unpaid per diem, mileage or other charges of any kind earned by the Trust Equipment or any thereof, and may lease the Trust Equipment or any part thereof, or sell the same or any part thereof, so far as it may deem necessary or desirable to perform and fulfill the trusts under said Agreement, at public sale, for cash or upon credit, in its discretion, and otherwise proceed to enforce its rights and the rights of the owners of interests under said Agreement and under this Lease in the manner therein and herein provided; and upon such taking possession or withdrawal or lease or sale of the Trust Equipment, the Railroad Company shall cease to have any rights or remedies in respect of the Trust Equipment under this Lease, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Railroad Company; and no payments theretofore made by the Railroad Company for the rent or use of the Trust Equipment, or any of it, shall, in case of the happening of any such event of default and such taking possession, withdrawal, lease or sale by the Trustee, give to the Railroad Company any legal or equitable interest or title in or to the Trust Equipment, or any of it, or any cause or right of action, at law or in equity, in respect of the Trust Equipment against the Trustee or the owner of interests in said Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series Z; and such taking possession or withdrawal or lease or sale of the Trust Equipment by the Trustee shall not be a bar to the recovery by the Trustee from the Railroad Company of rentals then or thereafter due and payable, and the Railroad Company shall be and remain liable for the same, until such sum shall

have been realized as, with the proceeds of the lease or sale of the Trust equipment, shall be sufficient for the discharge and payment in full of all the various items mentioned in subdivision (a), (b), (c), (d), (e), (f), (g) and (h) of Article First hereof, whether they shall have then matured or not.

In case the Trustee shall rightfully demand possession of the Trust Equipment in pursuance of this Lease, and shall reasonably designate a point or points upon the railroad of the Railroad Company, or upon the railroad of any company a majority of whose capital stock is at the time directly or indirectly owned by the Railroad Company, for the delivery of the Trust Equipment to it, the Railroad 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 railroads 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 Railroad Company until the Trustee shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad 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 of equity having jurisdiction in the premises the Trustee shall be entitled to a decree against the Railroad Company requiring the specific performance thereof.

The remedies in this Lease and in said Agreement provided in favor of the Trustee and the holders of Trust Certificates, or any of them, shall not be deemed exclusive,

but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity, and may be exercised from time to time and as often and in such order as may be deemed expedient by the Trustee. No delay or omission of the Trustee in the exercise of any right or power accruing upon any event of default shall impair any such right or power or shall be construed to be a waiver of such event of default or an acquiescence therein.

If the Trustee shall exercise any of the powers or remedies conferred upon it hereunder, the Railroad Company shall have the right, after all rentals and other sums due hereunder to the Trustee shall have been received by the Trustee, to require title to such of the Trust Equipment as shall not previously have been sold, assigned, transferred or otherwise disposed of by the Trustee to others to be transferred and assigned by the Trustee to the Railroad Company free from any further liabilities or obligations to the Trustee hereunder. If after applying all sums of money received by the Trustee in the exercise of such powers or remedies there shall remain any amount due to the Trustee under the provisions of this Lease, the Railroad Company hereby agrees to pay to the Trustee the amount of such deficiency. If after applying as aforesaid all sums so received by the Trustee there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to the Railroad Company.

Eighth. The Railroad Company covenants that prior to the delivery to it of any of the Trust Equipment covered thereby it will cause this Lease and said Agreement, and thereafter from time to time any and all supplemental leases and agreements which may be executed pursuant to the terms hereof and of said Agreement, to be duly filed, registered or recorded and duly refiled, reregistered and rerecorded in each and every jurisdiction

required by law, in order to publish notice of and to protect the Trustee's title to the Trust Equipment and any additions or replacements, and from time to time will perform any other act required by law, and will execute any and all further instruments that reasonably shall be requested by the Trustee for such publication and protection of such title.

Ninth. Until it shall have discharged all its obligations under this Lease, the Railroad Company shall pay all costs, charges and expenses incident to the performance of all terms and conditions of this Lease and said 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 said Agreement and of any instrument of further assurance, and all stamp taxes and other taxes, duties, imposts, assessments, charges, fines and penalties of any kind imposed upon this Lease, said Agreement 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.

Tenth. This Lease 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.

Eleventh. This Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the Trustee, acting in accordance with the terms and conditions of said Agreement, and the

Railroad Company have caused these presents to be duly executed, as of the day and year first above written.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,

By R M Kimball
Vice-President.

Attest: W Brum
Assistant Secretary.

Signed, sealed and delivered by Continental Illinois National Bank and Trust Company of Chicago in the presence of:

J Conley

E J Friedrich
Attesting Witnesses.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,

By C H Burford
President.

Attest: Jno Burtness
Secretary.

Signed, sealed and delivered by Chicago, Milwaukee, St. Paul and Pacific Railroad Company, in the presence of:

Ruth E. Hall

R K Merrill
Attesting Witnesses.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, W. G. EVERIST, 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 July, 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 R. M. KIMBALL and V. P. NELSON, each to me personally known and known to me to be, respectively, a Vice-President and an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, 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 thereunto subscribed as such, and said R. M. KIMBALL and V. P. NELSON, 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 R. M. KIMBALL resides in Evanston, in the State of Illinois, and that said V. P. NELSON resides in Chicago, in the State of Illinois, that said R. M. KIMBALL is a Vice-President and said V. P. NELSON is an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, the corporation described in and which executed the

within and foregoing instrument in writing; that they, said R. M. KIMBALL, Vice-President, and V. P. NELSON, 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 order and 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 Assistant Secretary in behalf of said corporation by like order and 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 APRIL 9, 1948

Notary Public in and for the State of Illinois, County of Cook.

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 notarization; that

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 said County, duly commissioned, sworn and qualified as such, and authorized to take and certify 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. And, I further certify 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 that said 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 July A.D. 1947

County Clerk.

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 17th day of July, 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 C. H. BUFORD and T. W. BURTNESS, to me personally known and known to me to be, respectively, ——— 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 ——— 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 ——— 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, ——— 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 ——— 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

Notary Public in and for the State of Illinois, County of Cook.

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 notarization; that

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 said County, duly commissioned, sworn and qualified as such, and authorized to take and certify 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. And, I further certify 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 that said 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 July A.D. 1947

County Clerk.

THIS AGREEMENT, dated as of July 1, 1947, by and between PAUL B. ROBB and H. J. GROENER (hereinafter called the Vendors), of the first part, CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO (hereinafter called the Trustee), as Trustee, of the second part, and CHICAGO, MILWAUKEE, ST. PAUL and PACIFIC RAILROAD COMPANY (hereinafter called the Railroad Company), of the third part, WITNESSETH as follows:

WHEREAS, the Vendors have acquired or will acquire from the Railroad Company the railroad equipment (which together with the additional or substituted equipment and replacements as in the Lease and this Agreement provided are hereinafter called the Trust Equipment) specifically described in the Lease of Railroad Equipment from the Trustee to the Railroad Company prefixed to this Agreement, to which Lease reference is hereby made; and

WHEREAS, subscriptions have been or are being secured, in an amount not exceeding $6,000,000 to a fund to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series Z, which said fund is to be deposited with the Trustee and applied by the Vendors or upon their written order in part payment on account of the cost of the Trust Equipment; and

WHEREAS, the Vendors desire to secure to the subscriber or subscribers to said fund, or their assigns, the payment of the amount thereof in twenty equal semiannual installments, payable respectively on January first and July first, in each year, beginning on January 1, 1948, and ending on July 1, 1957, as hereinafter more particularly provided, with dividends to said dates of maturity respectively as hereinafter provided; and to evidence the rights of the sub-

scriber or subscribers to said fund by Trust Certificates in substantially the form hereinafter set forth; and

WHEREAS, the Railroad Company is desirous of securing the use of the Trust Equipment upon and in connection with the properties of the Railroad Company; and

WHEREAS, the Railroad Company represents that all things necessary to make the guaranty of the Railroad Company as endorsed upon the Trust Certificates, when said Certificates shall be issued by the Trustee under this Agreement, the binding, valid and legal obligation of the Railroad Company, as herein provided, and to make this Agreement and said 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 I.

SECTION 1. 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 of the Trust Certificates hereinafter described, the Trust Equipment described or referred to in said Lease prefixed hereto when and as the Trust Equipment or any part thereof is constructed or completed or otherwise acquired. The Vendors will deliver, or cause to be delivered, the Trust Equipment or any part thereof when and as constructed or 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 or agents of the Railroad Company, and the certificate of any and every agent so

designated shall be conclusive evidence of such delivery. The Trustee and the Railroad Company, simultaneously with the execution of this Agreement, have executed and delivered said Lease of all the Trust Equipment.

SECTION 2. The Trustee shall at any time, or from time to time, upon written request of the Vendors, without waiting for the recording, registration or filing of this agreement, or of any lease of or other instrument respecting the equipment subjected to this Agreement, execute and deliver to the subscriber or subscribers to said fund, as specified in such request, certificates to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust Certificates, Series Z, herein called the Trust Certificates, upon the deposit in cash with the Trustee of a sum equal to the principal amount and accrued dividends to date of delivery of the Trust Certificates the execution and delivery of which shall be so requested and not less than the net proceeds of the sale of said Trust Certificates.

Any interest allowed by the Trustee or earned upon any money so deposited shall be added to said fund and become a part of the Deposited Cash to be disposed of as hereinafter provided. All moneys paid to the Trustee as accrued dividends upon the original issuance and delivery of any Trust Certificates shall be held by the Trustee until the next ensuing dividend payment date, and thereupon shall be applied by the Trustee to the payment of any dividends then due, as if such moneys were paid to the Trustee by the Railroad Company as rent pursuant to Article First of said Lease for application as in subparagraph (e) thereof provided.

SECTION 3. The term Deposited Cash, whenever used herein, shall mean and include (a) the cash deposited with or to the credit of the Trustee constituting said fund, or a part thereof, as in Section 2 of this Article I provided

(including any interest allowed or earned thereon, but excluding any accrued dividends paid upon the original issuance of Trust Certificates), and (b) all installments of rental paid pursuant to subdivisions (a) and (b) of Article First of said Lease. The Deposited Cash shall, until paid out by the Trustee as herein provided, be held in trust for the benefit of the bearers of the Trust Certificates. Thereafter, from time to time, when and as any of the Trust Equipment shall have been delivered to the Trustee, the Trustee shall pay to the Vendors, or upon their order, out of the Deposited Cash, an amount equal to the cost of the equipment so delivered to the Trustee, such cost to be conclusively established (subject to the provisions of Section 4 of this Article I) by the certificate in writing of the Railroad Company by its duly designated representative, delivered to the Trustee prior to or contemporaneously with such payment.

SECTION 4. The Trustee shall not pay out any Deposited Cash as provided by Section 3 of this Article I against the delivery of any of the Trust Equipment unless and until it shall have received:

(a) a certificate of the agent or agents designated by the Trustee to receive delivery of the Trust Equipment, stating that Trust Equipment specified by numbers in such certificate has been delivered to such agent or agents;

(b) a certificate of the Railroad Company, signed by the President or the Vice-President and Comptroller or an Assistant Comptroller of the Railroad Company, certifying that the cost of such Trust Equipment, determined as provided in said Lease, is the amount therein specified;

(c) a bill or bills of sale of such Trust Equipment from the Railroad Company to the Vendors and from the Vendors to the Trustee, such bill of sale by the Railroad Company to contain or be accompanied by a warranty or guaranty of the Railroad Company that the title to the Trust Equipment described therein is

free from any liens or encumbrances or that it is free from any lien or encumbrance except the liens, if any, of the First Mortgage and of the General Mortgage of the Railroad Company, and that pursuant to the provisions in said mortgages contained, they have been released or subordinated as to such Trust Equipment to secure or confirm the prior right, charge, lien or title of the Trustee in this Agreement and in the Lease hereto prefixed to such equipment; and

(d) an opinion of counsel satisfactory to the Trustee that such bill or bills of sale and deliveries are valid and effective, either alone or in connection with any other instrument executed in connection therewith, to vest in the Trustee, free from all liens and encumbrances, the title so transferred to the Trustee or that it is free from any lien or encumbrance except the liens, if any, of the First Mortgage and of the General Mortgage of the Railroad Company, and that the liens of each of the mortgages of the Railroad Company, pursuant to the provisions in said mortgages contained, have been released or subordinated as to such Trust Equipment to secure or confirm the prior right, charge, lien or title of the Trustee in this Agreement and in the Lease hereto prefixed to such equipment.

Any such certificate or certificates as to cost may state that the cost of the Trust Equipment therein referred to is tentatively determined, subject to final adjustment, and in that case, adjustments may be made by certificates thereafter filed. A final certificate, signed as provided in paragraph (b) above, as to the cost of all the Trust Equipment shall be delivered to the Trustee by the Vendors not later than July 1, 1948.

SECTION 5. In the event that, owing to the imposition of restrictions by the United States Government, or any governmental bureau, commission, or agency having authority in the premises, the Vendors shall be unable to acquire any and all of the Trust Equipment specifically described in the Lease, the Vendors may cause to be built or acquired, if available, and in such event shall sell,

assign, transfer, and set over, or cause to be sold, assigned, transferred, and set over unto the Trustee, subject to the provisions of the foregoing Section 4 of this Article I, other new, standard gauge railroad equipment, of such classes or types, and of such material and construction, as may be approved by the Railroad Company; provided, however, that the Trustee shall not acquire work equipment, except in substitution for work equipment described in the Lease.

In the event that the aggregate cost of the Trust Equipment specifically described in the Lease, and of any equipment that may be substituted therefor in accordance with the provisions of the foregoing paragraph, acquired by the Trustee hereunder, shall not amount to at least $8,000,000, then the Vendors shall cause to be built or acquired, if available, and, in such event, shall sell, assign, transfer and set over, or cause to be sold, assigned, transferred and set over unto the Trustee, subject to the provisions of the foregoing Section 4 of this Article I, other new, standard gauge railroad equipment, other than work equipment, of such classes or types, and of such material and construction, as may be approved by the Railroad Company, and of such cost that the aggregate cost of all the Trust Equipment will be at least $8,000,000.

In case any substituted or additional equipment shall be acquired and transferred to the Trustee in accordance with either of the preceding two paragraphs, the Trustee shall execute to the Railroad Company a supplemental lease of such substituted or additional equipment, describing the same, upon and subject to the terms and conditions hereof and of the Lease, and such substituted or additional equipment shall be part of the Trust Equipment, subject to all the terms and conditions of this Agreement and the Lease in all respects as though it had been part of the original Trust Equipment specifically described in the Lease.

SECTION 6. The Trustee shall, on request of the Railroad Company, invest and keep invested all, or such part of the Deposited Cash not needed by it to pay for Trust Equipment delivered or about to be delivered, as may be designated by the Railroad Company, in such United States Government securities as they may designate. The Trustee, with or without the request of the Railroad Company, may from time to time sell, at the prevailing market prices, such amount of such securities as it may deem necessary to provide cash to pay for Trust Equipment delivered, or about to be delivered, and may, with or without such request, at any time or from time to time, sell at such prices, all or part of such securities, if, by reason of a declining market therefor, it believes there is danger of the securities going below par. The Trustee shall sell any such United States Government securities held by him, when directed by the Railroad Company. The Railroad Company covenants and agrees that, if the selling price of said securities, including any accrued interest and premium, plus any interest paid to the Trustee on such securities, is less than the purchase price thereof, including any accrued interest and premium, the Railroad Company shall forthwith pay to the Trustee the amount of such deficiency as rental, as provided in Paragraph First of the Lease. All interest received by the Trustee on such securities, and all proceeds of the sale thereof, including premium and accrued interest, if any, shall constitute part of Deposited Cash.

SECTION 7. Anything in this Article 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 principal sum of $6,000,000 at any one time outstanding (subject, however, to the provisions of Section 6 of Article II of this Agreement).

SECTION 8. Any moneys held by the Trustee after delivery of and payment for all of the Trust Equipment, the disposition of which is not herein or in said Lease otherwise provided for, shall be credited against the next installment of rental payable under Section (f) of Article First of said Lease.

ARTICLE II.

SECTION 1. Each of the definitive Trust Certificates shall represent an interest in the amount of One Thousand Dollars ($1,000) in the trust of the Trust Equipment hereby created, and the bearer of any trust certificate, whether definitive or temporary, shall be entitled to receive dividends on said amount at the rate of 1¾ per cent per annum from July 1, 1947, payable semi-annually on the first day of January and July in each year. $300,000 principal amount of the Trust Certificates shall become due and payable on January 1 and July 1 in each year beginning on January 1, 1948, and ending on July 1, 1957. Each of said Trust Certificates shall have endorsed thereon the guaranty of the Railroad Company in the form hereinafter set forth.

The due date of each Trust Certificate shall appear on its face. The definitive Trust Certificates shall be numbered from 1 consecutively upward to 6000, both inclusive.

Dividend warrants evidencing the right of the holders of the Trust Certificates to the dividends thereon shall be annexed to the respective definitive Trust Certificates. All dividends on the respective Trust Certificates shall cease after the principal thereof shall have become due.

Trust Certificates if temporary may be printed and if definitive shall be lithographed, lithographically printed or engraved.

SECTION 2. The definitive Trust Certificates, the dividend warrants to be annexed thereto and the guaranty to

be endorsed thereon by the Railroad Company as hereinafter in Article III provided shall be in substantially the following forms:

(Form of Trust Certificate.)

No._____ $1,000

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD EQUIPMENT TRUST.

SERIES Z.

Total Issue not to exceed $6,000,000.

Dividends at the Rate of 1¾ Per Cent per Annum.

Payable January 1 and July 1.

Continental Illinois National Bank and Trust Company of Chicago,
Trustee.

Principal Hereof Due _____ 1, 19____.

Continental Illinois National Bank and Trust Company of Chicago, as Trustee under an agreement dated as of July 1, 1947 (hereinafter referred to as the "Agreement"), between Paul B. Robb and H. J. Groener, of the first part, Continental Illinois National Bank and Trust Company of Chicago, Trustee (hereinafter referred to as the "Trustee"), of the second part, Chicago, Milwaukee, St. Paul and Pacific Railroad Company (hereinafter referred to as the "Railroad Company"), of the third part, hereby certifies that the bearer hereof is entitled to an interest of One Thousand Dollars in Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series Z, payable on _____ 1, 19_____, unless prior payment hereof be required as hereinafter provided, and to dividends thereon at the rate of one and seven-eighths per cent (1⅞%) per annum from July 1, 1947, to said date of maturity, payable semi-annually on January first and July first in each year, but only upon pres-

entation 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 City of Chicago and State of Illinois, or at the agency of the Trustee in the Borough of Manhattan, in the City and State of New York, in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts, all without deduction for any tax, assessment or other governmental charge (other than Federal income taxes) which the Railroad Company or the Trustee may be required to pay, or to retain therefrom, under any present or future law of the United States of America, or of any state, county, municipality or other lawful taxing authority therein, but only from and out of rentals or other moneys received by the Trustee from a certain Lease of Railroad Equipment made by Continental Illinois National Bank and Trust Company of Chicago, Trustee, to the Railroad Company, dated as of July 1, 1947.

This certificate is one of an issue of certificates, in bearer form, in an aggregate principal amount not exceeding $6,000,000, substantially identical except as to dates of maturity, all issued or to be issued under said Agreement. The terms of the Agreement further provide that said railroad equipment (or deposited cash and United States Government securities in lieu thereof as provided in said Agreement) and said Lease thereof are to be held by the Trustee in trust for the benefit of the bearers of said certificates. Reference is hereby made to said Agreement and Lease, filed with the Trustee at its office in the City of Chicago, for a further statement of the rights of the bearers of said certificates thereunder.

This certificate and the attached dividend warrants are issued subject to the condition, and every holder of this certificate or of any such dividend warrants, by accepting the same, agrees with every subsequent holder hereof and with the Trustee and the Railroad Company, that delivery of this certificate or any such dividend warrant by any 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 a negotiable instrument payable to bearer and the Trustee and the Railroad Company shall be entitled to treat the bearer hereof or the bearer of 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 the Railroad 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.

In witness whereof, the Trustee has caused this certificate to be signed by one of its Vice-Presidents, and its corporate seal to be hereunto affixed and to be attested by its Secretary or an Assistant Secretary, and dividend warrants bearing the facsimile signature of one of its Assistant Secretaries to be attached hereto, as of the first day of July, 1947.

Continental Illinois National Bank and Trust Company of Chicago,
As Trustee,

By_____
Vice-President.

Attest:

_____
Assistant Secretary.

(Form of Dividend Warrant.)

$_____ No._____

Due to the bearer hereof on the first day of_____, 19____, on surrender hereof at the office or agency of the undersigned Trustee in the City of Chicago and State of Illinois, or at its agency in the Borough of Manhattan, City and State of New York, _____ and _____ Dollars, without deduction for any tax or taxes

(other than Federal income taxes) required to be paid or retained, as provided in, and being the semi-annual dividend then due on, certificate No. _____ of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series Z, payable only out of rentals received by the Trustee under the Lease referred to in said certificate.

Continental Illinois National Bank and Trust Company of Chicago,
as Trustee,

By_____
Assistant Secretary.

(Form of Guaranty.)

Chicago, Milwaukee, St. Paul and Pacific Railroad Company, for a valuable consideration, hereby unconditionally guarantees to the bearer of the within Certificate, as provided in the Agreement referred to in said Certificate, the prompt payment of One Thousand Dollars, being the principal of said Certificate, when the same shall become due and payable, whether at the maturity thereof or by declaration or otherwise, and of dividends thereon at the rate of 1¼ per cent per annum on the semi-annual dates mentioned in said Certificate and in the dividend warrants thereunto attached, all in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts.

Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

By_____
Authorized Agent.

Section 3. The Trust Certificates shall be signed in the name and on behalf of the Trustee by one of its Vice-Presidents, and its corporate seal shall be thereunto affixed and attested by its Secretary or one of its Assistant Secretaries. In case any of the officers of the Trustee who

shall have signed and sealed any of the Trust Certificates shall cease to be such officers of the Trustee before the Trust Certificates so signed and sealed shall have been issued and delivered by the Trustee, such Trust Certificates shall be adopted by the Trustee and be issued and delivered as though the persons who signed and sealed such Trust Certificates had not ceased to be such officers of the Trustee. The dividend warrants to be thereunto attached shall be authenticated by the facsimile signature of the present or any future Assistant Secretary of the Trustee, and the Trustee may adopt and use for that purpose any such facsimile signature notwithstanding the fact that such Assistant Secretary may have ceased to be such Assistant Secretary at the time when any such Trust Certificate shall be issued and delivered as herein provided. Before executing and delivering any Trust Certificates the guaranty of the Railroad Company shall be duly executed thereon as hereinafter in Section 2 of Article III provided, and all matured dividend warrants thereto appertaining shall be cut off and canceled and delivered by the Trustee to the Railroad Company.

Section 4. Trust Certificates shall be in bearer form and shall pass by delivery.

Dividends upon the Trust Certificates shall be payable only upon presentation and surrender of the appropriate dividend warrants, or, in the case of temporary Trust Certificates without warrants, only upon presentation of such temporary Trust Certificates for a notation of such payment thereon.

Anything to the contrary herein notwithstanding, the parties hereto may deem and treat the bearer of any Trust Certificate 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.

SECTION 5. Temporary printed Trust Certificates, with or without dividend warrants, in such form and denominations as the Trustee may determine, may be issued by the Trustee, having endorsed thereon said guaranty of the Railroad Company, which shall be exchangeable, without cost, upon surrender for definitive Trust Certificates, of equal principal amount and of the same maturity or maturities and having endorsed thereon said guaranty of the Railroad Company, when the same shall have been prepared. 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 Railroad Company.

SECTION 6. In case any Trust Certificate, or the dividend warrants thereto attached, shall become mutilated or defaced or be lost, destroyed or stolen, then on the terms herein set forth, and not otherwise, the Trustee shall execute and deliver a new Trust Certificate (and the Railroad Company shall execute its guaranty thereon), with all unmatured dividend warrants, if any, appertaining thereto, of like maturity, tenor and date, and bearing the same serial number as the one mutilated, defaced, lost, destroyed or stolen, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Trust Certificate and warrants, or in lieu of and substitution for the same if lost, destroyed or stolen, and make payment of any matured dividend warrants appertaining to the same. The applicant for a new Trust Certificate shall furnish to the Trustee and to the Railroad Company evidence to their satisfaction of the loss, destruction or theft of said Trust Certificate or warrants alleged to have been lost, destroyed or stolen and of the ownership and authenticity of such

mutilated, defaced, lost, destroyed or stolen Trust Certificate and warrants, and also such security or indemnity as may be required by the Trustee and by the Railroad 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, defaced, lost, destroyed or stolen 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.

ARTICLE III.

SECTION 1. The Railroad 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 may be liable, and all taxes (other than Federal income taxes) which the Trustee or the Railroad Company may be required to pay or to retain from the principal of the Trust Certificates or the dividends payable in respect thereof, under any present or future law of the United States of America or of any state, county, municipality or other lawful taxing authority therein.

SECTION 2. The Railroad Company covenants and agrees and unconditionally guarantees that the bearer of each of the Trust Certificates shall receive the principal amount thereof, in such coin or currency of the United States of America as, at the respective times of payment, is legal tender for public and private debts, when and as the same shall become due and payable, whether at the maturity thereof or by declaration or otherwise (and, if not so

paid, with interest thereon at the same rate per annum as provided in the dividend warrants), and shall receive dividends thereon in like coin or currency at the rate of 1½ per cent per annum from July 1, 1947, to the date of maturity of such Trust Certificate, at the times and places and otherwise as expressed in the Trust Certificates and the warrants thereto attached (and if not so paid, with interest thereon at the same rate per annum as provided in the dividend warrants); all without deduction for any tax, assessment or other governmental charge (other than Federal income taxes) which the Railroad Company or the Trustee may be required to pay, or to retain therefrom, under any present or future law of the United States of America, or of any state, county, municipality or other lawful taxing authority therein, and the Railroad Company further covenants and agrees to endorse upon each of the Trust Certificates, definitive or temporary, at or before the issue and delivery thereof by the Trustee, its unconditional guaranty of the prompt payment of the principal thereof and of the dividends thereon, in substantially the form in Section 2 of Article II hereof provided. Said guaranty so endorsed shall be signed in the name and on behalf of the Railroad Company by such officer or officers as shall have been duly authorized by the Board of Directors of said Railroad Company to sign upon its behalf. In case any of the officers of the Railroad Company who shall have signed such guaranty shall cease to be such officers of the Railroad Company before the Trust Certificates shall have been actually issued and delivered by the Trustee, such guaranty shall nevertheless be as effective and binding upon the Railroad Company as though the persons who signed such guaranty had not ceased to be such officers of the Railroad Company.

ARTICLE IV.

SECTION 1. The Railroad 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 lien or charge upon or against any of the Trust Equipment, except upon the leasehold interest of the Railroad 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 the holders of the Trust Certificates in the Trust Equipment.

SECTION 2. The Railroad 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, the expenses incident to the preparation, execution and exchange of the Trust Certificates and dividend warrants, including the temporary Trust Certificates, or connected with the preparation, execution, recording, registration and filing hereof or of said Lease or of any instruments executed under the provisions hereof or of said Lease in respect of the Trust Equipment or Lease, or any equipment or parts used to replace any of the same.

SECTION 3. The Railroad Company covenants and agrees with all convenient speed to cause this Agreement and said Lease and any supplemental leases and agreements which may be executed under the terms of this Agreement, or of said Lease, to be duly filed or recorded in all states wherein

are situated railroad lines which the Railroad Company operates or to which it has title or over which it has trackage rights, or wherein are situated railroad lines of any railroad company a majority of whose capital stock is owned or controlled by the Railroad Company, and otherwise as may now or hereafter be provided by law for the full protection of the title and rights of the Trustee and of the holders of the Trust Certificates, so that this Agreement and said Lease and all other such supplemental instruments may at all times be duly filed and recorded.

SECTION 4. The Railroad Company covenants and agrees from time to time to do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and said Lease and the intent thereof.

ARTICLE V.

SECTION 1. In order to prevent any accumulation of Trust Certificates or of dividend warrants after maturity, neither the Trustee nor the Railroad Company shall directly or indirectly extend or assent to the extension of the time for the payment of any Trust Certificate 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 Railroad Company shall directly or indirectly be a party to or approve of any arrangement for purchasing or funding any of said Trust Certificates 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 or dividend warrant shall be so extended, whether or not such extension be by or with the consent of the Trustee or the Railroad Company, or in

vided to take all steps for the protection and enforcement of its rights and the rights of the bearers of the Trust Certificates, and to exercise one or more of the powers of entry, sale or lease in said 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 interest of the bearers of the Trust Certificates; but, anything in this Agreement to the contrary notwithstanding, upon indemnity satisfactory to the Trustee the bearers of a majority in principal amount of the Trust Certificates then outstanding shall have the right from time to time to direct what proceedings for any enforcement of said Lease and this Agreement and the sale or lease of the Trust Equipment shall be taken by the Trustee. The proceeds of such proceedings or lease or sale shall be applied by the Trustee to the payment after deducting the expenses of the trust and reasonable compensation of the Trustee and all taxes, assessments and other governmental charges which the Trustee may by law be required to pay in respect of the trust or the Trust Certificates aforesaid or the dividends thereon:

(1) of the dividends and dividend warrants then due with interest on any overdue dividends and dividend warrants at the same rate per annum as provided in the dividend warrants; and

(2) of the principal of all said outstanding Trust Certificates with interest thereon at the same rate per annum as provided in the dividend warrants, from the last preceding dividend date, whether said Certificates or any of them shall then have matured by their terms or not;

all of said payments to be in full, if said proceeds shall be sufficient and if not, then *pro rata*, without preference of principal over dividends, or of dividends over principal or otherwise (subject, however, to the provisions of Section 1 of this Article V), and without regard to the dates of maturity thereof.

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 Railroad 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 Railroad Company, such Trust Certificate, dividend or dividend warrant shall not be entitled to the benefit of said Lease or of this Agreement, except subject to the prior payment in full of the principal of all other Trust Certificates, dividends and dividend warrants, whether the same be then matured or unmatured.

SECTION 2. In case one or more of the events of default described in Article Seventh of said Lease shall happen, the Trustee in its discretion may, and at the request of the bearers of twenty per cent (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 (so far as may be necessary to perform the trusts hereunder), at public sale, for cash or upon credit, as the Trustee may deem most beneficial to the interest of the bearers of said Trust Certificates. Upon the written request of the bearers of twenty per cent (20%) in principal amount of the Trust Certificates at the time outstanding, in case one or more of said events of default shall happen (whether the principal of the Trust Certificates shall have been declared due and payable or not), it shall be the duty of the Trustee upon being indemnified as hereinafter pro-

The foregoing provisions, however, are subject to the condition that, if at any time after the principal of the Trust Certificates shall have been declared and have become due and payable, as hereinbefore provided, but before July 1, 1967, all arrears of rental (with interest upon any overdue instalment at the same rate per annum as provided in the dividend warrants), the expense and reasonable compensation of the Trustee and all other sums which shall have become due and payable by the Railroad Company hereunder or under said Lease (other than the principal of Trust Certificates and rental instalments which shall not at the time have matured according to their terms) shall be paid by the Railroad Company before any taking possession, withdrawal, sale or lease by the Trustee of any of the Trust Equipment, and every other default in the observance or performance of any covenant or condition of this Agreement or said Lease shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then and in every such case the Trustee, if so requested by the bearers of a majority in principal amount of the Trust Certificates then outstanding and which shall not have been matured according to their terms, shall, by written notice to the Railroad Company, waive the default by reason of which the principal of the Trust Certificates shall have been declared and become due and the consequences of such default, and said Lease shall upon such waiver be and continue in full force and effect, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

Neither such retaking possession nor any withdrawal or lease or sale of the Trust Equipment by the Trustee nor any action or failure or omission to act, against the Railroad Company or in respect to the Trust Equipment, on

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the part of the Trustee or on the part of any bearer of any Trust Certificate or dividend warrant, nor any delay or indulgence granted to the Railroad Company by the Trustee or any such bearer, shall affect the obligations of the Railroad Company under this Agreement or under said Lease or under its guaranty.

The Railroad Company waives presentation and demand in respect of any of the Trust Certificates and dividend warrants and waives notice of presentation and demand and of any default in the payment of principal of and dividends upon the Trust Certificates.

The Trustee may at any time, upon notice in writing to the Railroad Company, apply to any court of competent jurisdiction for instructions as to the application and distribution of any funds or property held by it.

ARTICLE VI.

SECTION 1. The Trustee hereby accepts the trust created hereby, subject to the terms and conditions hereof and of said Lease, and hereby covenants and agrees, so far as reasonably possible, subject to the provisions of Sections 4, 5 and 7 of this Article VI, to perform, and to enforce the performance of, all and singular the terms, conditions and covenants of said Lease.

SECTION 2. The Trustee covenants and agrees to apply and distribute the rentals received by it under subdivisions (c), (d), (e), (f) and (g) of Article First of said Lease, when and as the same shall be received, for the following purposes, to wit:

(a) to the payment of the necessary and reasonable expense of the trust, including the proper compensation of the Trustee and its counsel for its services and all expenses connected with the Trust Equipment and said Lease thereof;

(b) to the payment of any taxes, assessments and other governmental charges upon the Trust Equipment which it may by law be required to pay; and to the payment of any and all taxes, assessments and other governmental charges (other than Federal income taxes) which may by law be charged against the Trustee upon the Trust Certificates or the dividends payable thereunder, or which the Trustee may be required to retain or deduct therefrom or to pay thereon under any present or future law of the United States of America, or of any state, county, municipality or other lawful taxing authority therein;

(c) to the payment of the dividends payable on the Trust Certificates and of the dividend warrants appurtenant thereto when and as the same shall become payable;

(d) to the payment of the principal of the Trust Certificates when and as the same shall become payable according to the terms thereof or hereof; and

(e) to the payment of interest on any unpaid dividends, dividend warrants or principal at same rate per annum as provided in the dividend warrants.

SECTION 3. The Trustee, at all times until the payment of the principal of all the Trust Certificates, shall keep an office or agency in the City of Chicago and State of Illinois and an agency in the Borough of Manhattan in the City and State of New York, where the Trust Certificates and dividend warrants may be presented for payment.

SECTION 4. The Trustee assumes no liability for anything other than its own wilful default, misconduct or gross neglect, or that of its officers or directors. It shall be required to undertake no act or duty in the way of taking care of or taking possession of the Trust Equipment until fully secured against all liability and expenses.

The Trustee shall not be liable for the delivery of any of the Trust Equipment, or for any defect therein or in the title thereto of the Trustee, nor shall anything herein be construed as a warranty 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. All representations and recitals contained in this Agreement and in said Lease are made by and on behalf of the Railroad 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 purports to have any knowledge with respect thereto, and the Trustee shall not be responsible in any way for the validity thereof, 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, nor shall it be responsible for the filing, refiling, recording or rerecording of this Agreement or of said Lease; and the Trustee may issue and deliver Trust Certificates in advance of such filing or recording.

The Trustee may exercise its powers and perform its duties hereunder and under said Lease by or through such attorneys, agents and servants as it shall appoint, and it shall be entitled to the advice of counsel (who may, in cases deemed by the Trustee, in its reasonable discretion, to be appropriate, be of counsel for the Railroad Company), and shall be protected by the advice of such counsel in anything reasonably done, or omitted to be done, by it in good faith in accordance with such advice. The Trustee shall not be liable or responsible for the neglect, default or misconduct of any attorney, agent or servant appointed and retained by it in the exercise of reasonable care, but nothing in this

sentence contained shall limit any liability of the Trustee, pursuant to the first sentence of this Section 4, for acts, neglects or wilful defaults of its officers or directors.

SECTION 5. The Trustee shall be under no obligation to take any action for the execution or enforcement of any of the trusts hereby created unless requested thereunto in writing by the bearers of not less than twenty per cent (20%) in principal amount of the then outstanding Trust Certificates, and upon being satisfactorily indemnified against expenses and liability with respect thereto, and also furnished with proof satisfactory to it as to the ownership of the Trust Certificates in respect of which any notice or request may be made; but neither any such request nor this provision therefor shall affect any discretion herein elsewhere specifically given to the Trustee to determine what action it shall take in respect of any such default, or to take action without request.

SECTION 6. No bearer of any Trust Certificate or dividend warrant issued hereunder (other than the bearer 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, after the aforesaid request in writing by the bearers of not less than twenty per cent (20%) in principal amount of the then outstanding Trust Certificates shall have been made upon the Trustee and ninety days' time elapsed for action by the Trustee upon such request, it shall decline to institute any proceedings pursuant thereto.

SECTION 7. The Trustee may, for all purposes, conclusively assume that the Railroad Company is not in default under the terms hereof until notified in writing to the contrary by the bearers of at least five per cent (5%) in principal amount of the Trust Certificates then outstanding,

which notice shall distinctly specify the default desired to be brought to the attention of the Trustee.

SECTION 8. The Trustee shall not incur any liability to anybody in acting upon any notice, consent, order, certificate, warrant, receipt, request or other paper or instrument reasonably believed by it to be genuine or authentic, and to be signed by the proper party or parties and reasonably believed by it to be sufficient.

SECTION 9. The Trustee, in so far as permitted by law, will allow such interest upon all moneys received by it under the provisions of this Agreement or of said Lease as during that time is allowed by it upon deposits of a similar character.

SECTION 10. The Trustee may resign and be discharged from the trusts created by this Agreement by mailing to the Railroad Company notice in writing of such resignation, specifying a date when it is desired that such resignation shall take effect. Such notice shall be published at least once in each of three successive calendar weeks prior to the date specified in such notice, on any day or days of the week, in two daily newspapers printed in the English language, one published and of general circulation in the City of Chicago and State of Illinois and the other in the Borough of Manhattan in the City and State of New York. Such resignation shall take effect immediately upon, but not prior to, the appointment of, and acceptance of the trust by, such successor trustee as hereinafter provided, whether on, prior to, or subsequent to, the date stated in said notice of resignation.

Any trustee hereunder may be removed at any time by an instrument in writing filed with the Trustee and executed by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding.

SECTION 11. In case at any time the Trustee shall resign or shall be removed or otherwise shall become incapable of acting, a successor may be appointed by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding by an instrument or concurrent instruments signed by such bearers or their attorneys in fact duly authorized; but until a new trustee shall be appointed by such bearers as herein authorized, the Railroad Company, by an instrument executed by the President or the Vice-President and Comptroller of the Railroad Company, or its duly authorized agent, shall appoint a trustee to fill such vacancy. If the Railroad Company shall fail, within thirty days after receipt of notice that the Trustee has resigned, to appoint a trustee to fill such vacancy, and if a successor trustee shall not have been appointed by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee. Every such successor trustee, whether appointed by the bearers of the Trust Certificates or by the Railroad Company or by order of court, shall always be a trust company or bank having power so to act, shall be a member bank of the Federal Reserve System, or of such system of banks, if any, as may be established in lieu thereof, shall be organized under the laws of the United States of America, or the State of Illinois and having an office in the City of Chicago and State of Illinois, or the State of New York and having an office in the Borough of Manhattan in the City and State of New York, and shall have a capital and surplus aggregating at least Five Million Dollars. After any such appointment by the Railroad Company or by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding the Railroad Company

shall cause notice of such appointment to be published once a week in each of four successive weeks in two daily newspapers printed in the English language, one published and of general circulation in the City of Chicago and State of Illinois, and the other in the Borough of Manhattan in the City and State of New York; but any new trustee so appointed by the Railroad Company or by a court of competent jurisdiction shall immediately, and without further act, be superseded by a trustee appointed, in the manner above provided, by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding, provided such appointment is made within a period of one year after the Trustee shall resign, be removed or become incapable of acting.

Any successor trustee appointed hereunder shall execute, acknowledge and deliver to the Railroad 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 Railroad 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 Railroad Company.

Any corporation resulting from any merger or consolidation to which the Trustee, or any successor to it, shall be a party, shall be the 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, provided such corporation shall be a corporation having power so to act, shall be a member bank of the Federal Reserve System, or of such system of banks, if any, as may be established in lieu thereof, shall be organized under the laws of the United States of America, or the State of Illinois and having an office in the City of Chicago and State of Illinois, or the State of New York and having an office in the Borough of Manhattan, in the City and State of New York, and shall have a capital and surplus aggregating at least Five Million Dollars.

SECTION 12. The Trustee shall be entitled to reasonable compensation for all services rendered by it and the Railroad Company agrees to pay from time to time, on demand of the Trustee, such compensation and to reimburse the Trustee for, and defend and save it harmless against, any and all loss, damage, liability, claims, demands, disbursements and expenses, including reasonable counsel fees, which it may incur hereunder or under said Lease, and to secure the payment thereof the Trustee shall have a lien on the Trust Equipment and the proceeds thereof prior to the rights therein of the bearers of Trust Certificates.

The Trustee may become the owner of Trust Certificates and 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.

ARTICLE VII.

In case of the death or inability to act of either of the Vendors, the other Vendor shall have and discharge all the powers of the Vendors. In case of the death or inability to act of both of the Vendors, the Trustee shall receive and distribute or pay for the account of the original Vendors, to the parties entitled to receive the same from the original Vendors, all Trust Certificates issuable or Deposited Cash or other moneys payable to the original Vendors by the Trustee hereunder. Any action taken by either of the Vendors shall have the same force and effect as if taken by both of them. The Vendors shall incur no liability hereunder, or under any bill of sale, guaranty or warranty executed by them as herein provided, for anything other than their own wilful default, misconduct or gross neglect. The Vendors shall be entitled to the advice of counsel (who may in appropriate cases be of counsel for the Railroad 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 VIII.

Any request or other instrument required by this Agreement to be signed or executed by bearers of Trust Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such bearers 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 conclusively be deemed to be satisfactory to the Trustee), 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 Illinois, acknowledgments of deeds to be recorded 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;

(b) the amount of Trust Certificates held by any person executing any such request or other instrument as a Certificate holder, and 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.

ARTICLE IX.

At the termination of said Lease, any moneys, remaining in the hands of the Trustee, after paying the principal of and dividends upon the Trust Certificates, and the expenses of the Trustee, including its reasonable compensation, shall be paid to the Railroad Company.

ARTICLE X.

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 the bearers of the Trust Certificates and the bearers of the appurtenant dividend warrants, any right, remedy or claim, under or by reason of this Agreement, or of any term, covenant or condition thereof, and all of the terms, covenants, conditions, promises and agreements in this Agreement contained shall be for the sole and exclusive benefit of the parties hereto and their successors and of the bearers of the Trust Certificates and the bearers of the dividend warrants.

ARTICLE XI.

The term "Trustee" as used herein and in said Lease shall be held and construed to mean Continental Illinois National Bank and Trust Company of Chicago, its successors and assigns; and the term "Railroad Company" herein to mean Chicago, Milwaukee, St. Paul and Pacific Railroad Company, its successors and assigns. The term "Trust Equipment" whenever used herein or in said Lease, unless otherwise indicated by the context, is intended to include all railroad equipment at any time covered by said Lease or any supplemental lease or this Agreement or required or intended so to be. The terms "Trust Certificate" or "Trust Certificates," whenever used herein or in said Lease, includes, unless the context otherwise indicates, both temporary and definitive certificates. The term "State" whenever used herein or in said Lease shall include the District of Columbia.

Whenever, under the provisions hereof, it is necessary or proper for any notice or demand to be given to or made

upon the Railroad Company, or if at any time it is desired to give any such notice or make any such demand, such notice or demand may be given or made to the Railroad Company by depositing a written statement thereof, securely enclosed in a postpaid wrapper in the United States registered mail, directed to the Railroad Company at Union Station Building, Chicago 6, Illinois, and an affidavit by any person representing or acting on behalf of the Trustee as to such mailing, shall be conclusive evidence of the giving of such notice and the making of such demand.

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.

IN WITNESS WHEREOF the parties of the first part have hereunto set their hands and seals, and the parties of the second and third parts have caused their respective corporate names to be signed hereto by their respective officers thereunto duly authorized and their respective corporate seals to be hereto affixed, duly attested, as of the day and year first above written.

Paul B. Robb (L. S.)

H. J. Groener (L. S.)

Signed, sealed and delivered by Paul B. Robb and H. J. Groener in the presence of:

Attesting Witnesses.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,
As Trustee.

By R M Kimball
Vice-President.

Attest: W Purvis
Assistant Secretary.

Signed, sealed and delivered by Continental Illinois National Bank and Trust Company of Chicago in the presence of

Ruth E. Hall
E Anderson
Attesting Witnesses.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,

By C H Buford
President.

Attest J W Bentzen
Secretary.

Signed, sealed and delivered by Chicago, Milwaukee, St. Paul and Pacific Railroad Company, in the presence of:

Ruth E. Hall
R K Merrill
Attesting Witnesses.

STATE OF ILLINOIS, COUNTY OF COOK. } ss.

I, W. G. EVERIST, 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 21st day of July, 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 Paul B. Robb and H. J. Groener, to me personally known and known to me to be the individuals described in and the identical persons who subscribed their names to and who executed the within and foregoing instrument in writing in my presence as parties of the first part thereto and in the presence of the two witnesses whose names are thereunto subscribed as such, and said Paul B. Robb and H. J. Groener severally duly acknowledged to me in the presence of said witnesses that they signed, sealed, executed and delivered said instrument as their 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 Cook, State of Illinois, this the day and year in this my certificate first above written.

My commission as such Notary Public expires APRIL 9, 1948

W G Everist
Notary Public in and for the State of Illinois, County of Cook.

STATE OF ILLINOIS, COOK COUNTY. } ss.

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, Do Hereby Certify that I am the keeper of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of authority, and W. G. Everist 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 said 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 now in my office, and 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 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 July A.D. 1947

Michael J. Flynn
County Clerk.

STATE OF ILLINOIS, COUNTY OF COOK. } ss.

I, W. G. EVERIST, 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 21st day of July, 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 R. M. KIMBALL and V. P. NELSON, to me personally known and known to me to be, respectively, a Vice President and an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, 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 R. M. KIMBALL and V. P. NELSON, 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 R. M. KIMBALL resides in Evanston, in the State of Illinois, and that said V. P. NELSON resides in Chicago, in the State of Illinois; that said R. M. KIMBALL is a Vice President and said V. P. NELSON is an Assistant Secretary of Continental Illinois National Bank and Trust Company

of Chicago, the corporation described in and which executed the within and foregoing instrument in writing; that they, said R. M. KIMBALL, Vice President, and V. P. NELSON, 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 order and 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 Assistant Secretary in behalf of said corporation by like order and authority; that they signed, sealed with the corporate seal, executed and delivered said instrument as their own free and volutary 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 APRIL 9, 1948

W G Everist
Notary Public in and for the State of Illinois, County of Cook.

STATE OF ILLINOIS, COOK COUNTY. } ss.

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, Do Hereby Certify that I am the keeper of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of authority, and W. G. Everist 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 said 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 now in my office, and 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 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 July A.D. 1947

Michael J. Flynn
County Clerk.

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

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 17th day of July, 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 C. H. BUFORD and T. W. BURTNESS, to me personally known and known to me to be, respectively, ——— 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 ——— 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 ——— 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, ——— 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 ——— 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.

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 23rd day of JULY A. D. 1947 at 10:00 o'clock A.M. and recorded in Vol. 40 of Railroad Mortgages on page 46 E. F. 58.
Albert G. Hagen
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 keeper of the official records of Notaries Public of said County, and as such officer am duly authorized to have custody of the official seal of such Notaries Public and to certify to the authenticity of their official acts; that R. W. Spangenberg whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, and to the date of taking such proof of acknowledgment, was a Notary Public in and for said County, duly commissioned, sworn and qualified as such, and duly authorized to take acknowledgments and proofs of deeds or conveyances of lands, tenements and hereditaments in said State of Illinois, and to administer oaths; that as such Notary Public he was empowered by law to act in the premises; and I am well acquainted with the handwriting of such Notary Public and 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 July A.D. 1947
Michael J. Flynn
County Clerk.

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COUNTERPART
No. 15 OF 20

ASSIGNMENT

OF

CONDITIONAL SALE AGREEMENT

BETWEEN

GENERAL MOTORS CORPORATION
(ELECTRO-MOTIVE DIVISION)

AND

GREAT NORTHERN RAILWAY COMPANY

TO

CENTRAL HANOVER BANK and TRUST COMPANY

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 CENTRAL HANOVER BANK and TRUST COMPANY, a corporation of the State of New York, with its principal place of business at 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 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

(Fee $4.10)

INDEXED

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 one and 72/100 percent (1.72%) 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.

The Railroad also agrees to pay to the Manufacturer, upon receipt of invoice therefor, interest at the rate of one and 72/100 percent (1.72%) 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 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 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 the State of New York.

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 C. R. Wilson
Vice President.

ATTEST:
Asst. Treasurer.

Signed, sealed and delivered as to
General Motors Corporation (Electro-Motive
Division) 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 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 ..18th..... day of July, 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

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

I, Edward F. Ryan, 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 July, 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 Central Hanover Bank and Trust Company to the within and foregoing instrument, Alfred M. Ellinger and E. S. Brown, each to me personally known and known to me to be respectively Vice President and Assistant Secretary of 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 Alfred M. Ellinger 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 Alfred M. Ellinger resides in the Town of Montclair, State of New Jersey, and that the said E. S. Brown resides in the City of Peekskill, State of New York; that said Alfred M. Ellinger is Vice President and said E. S. Brown is Assis-

tant Secretary of 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.

Edward F. Ryan

EDWARD F. RYAN
Notary Public of The State of N. Y.
Residing in Nassau County
Nassau County No. 2089
Ctf. filed in N.Y. Co. No. 769, Reg. No. 385-R-9
Term Expires March 30, 1949

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 22nd day of July, 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.

State of Wisconsin }
DEPARTMENT OF STATE } ss.
Received this 25TH day of
JULY A. D. 1947 at 10:00
o'clock A.M. and recorded in Vol.
40 of RAILROAD MORTGAGES
on pages 48-56 incl.
Robert C. Zimmerman
Assistant Secretary of State

Executed in
20 Counterparts
Counterpart No 4

Conditional Sale Agreement

DATED AS OF JUNE 10, 1947

BETWEEN

FAIRBANKS, MORSE & CO.

AND

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

FOR PURCHASE OF
FOUR 2000 HP DIESEL ELECTRIC PASSENGER LOCOMOTIVES

Agreement and Assignment

DATED AS OF JUNE 12, 1947

BETWEEN

FAIRBANKS, MORSE & CO.

AND

THE NORTHERN TRUST COMPANY

THE GUNTHORP-WARREN PRINTING COMPANY, 310 WEST JACKSON, CHICAGO

This Agreement, dated as of June 10, 1947, 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"):

Four (4) new 2000 HP "A" Unit Diesel Electric Passenger Locomotives, bearing Seller's Serial Numbers and Buyer's Road Numbers, as follows:

Serial No.	Road No.	Serial No.	Road No.
L-1119	21A	L-1120	21B
L-1102	22A	L-1104	22B

(Fee $13.65) 57

all as described by Seller's Specification ALT 100.3, with modifications dated March 17, 1947, and supplements thereto requested by Buyer, and Seller's proposal dated February 27, 1947, as supplemented March 17, 1947, and May 12, 1947.

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 One Hundred Ninety-seven Thousand, Eight Hundred Five Dollars ($197,805.00) for each 2000 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 Eighty-five Hundredths Per Cent (1.85%) 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 December 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 December 31, 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) Forty-nine Thousand, Eight Hundred Five Dollars ($49,805.00) for each 2000 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

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the rate of One and Eighty-five Hundredths Per Cent (1.85%) 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 Four Thousand and Sixty-one Dollars and Thirty-two Cents ($4,061.32), excepting the fortieth (40th) quarter, when the amount shall be Four Thousand and Sixty-one Dollars and Forty Cents ($4,061.40) for each 2000 HP Diesel Electric Passenger Locomotive. Each of said forty (40) quarterly installment payments includes both principal and interest at the rate of One and Eighty-five Hundredths Per Cent (1.85%) 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 5% per annum upon all such amounts, principal and interest, after the same became 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 multiple 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 1.85% 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 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 re-

placements 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 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.

The Seller guarantees that each Diesel locomotive furnished pursuant hereto will be well made, of good material, and in a workmanlike manner, and agrees that if any part of any such locomotive, while in normal use and service, should fail because of defective material or workmanship in the manufacture thereof, either within one year after delivery to the original purchaser or before said locomotive has been operated 100,000 miles in service, whichever shall first occur, the Seller will replace such defective parts free of charge, F. O. B. cars, its Factory; but the Seller shall not be liable with respect to alterations or repairs made without its express written authorization, or for any damages whatsoever, whether direct or consequential, for delay or otherwise, nor for the cost or the expense of any replacements or repairs made without its express written consent or approval. Unless return is waived, defective parts shall be returned to the Seller at its factory, all transportation charges prepaid.

(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 others, 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 indemnify and hold harmless the Buyer for and from any liability, loss, cost, damage, or

expense suffered or incurred by the Buyer by reason of any threat or claim of or action for patent infringement, actual or alleged, in respect of any part, appliance, or matter of construction or design of said locomotive, other than parts, appliances, or matter of construction or design specified by or originating by or through the Buyer; provided, that, promptly upon becoming aware of any claim or threat or institution of action, for such infringement, actual or alleged, the Buyer shall notify the Seller, afford the Seller an opportunity to defend, and render all friendly and needed assistance. The Seller shall have the right to procure a royalty free license for the use of such locomotive, part, or appliance by Buyer in discharge of its obligation under this clause.

(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 obligation to manufacture, or 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, except with respect to the obligation to manufacture, or to the warranties and indemnities by the Seller specified in Sections (1), (6) and (10) hereof, which shall continue as obligations of Fairbanks, Morse & Co., as hereinbefore in this Section (11) provided, and shall, in a like

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manner, and subject to like conditions, extend to and for the benefit of such assignee or assignees of this agreement.

(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.

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 5% per annum upon any portion thereof then overdue, from the date of such default.

The Seller may at its election (and, if before the 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) *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 the court shall approve such petition as properly filed and the Trustee or Trustees failing to adopt this Agreement within thirty (30) days of the date of his or their appointment; or

(b) the filing by the creditors of the Buyer of any petiton for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, and the court shall approve such petition as properly filed and the Trustee or Trustees failing to adopt this Agreement within thirty (30) days of the date of his or their appointment; or

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(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, if any such proceeding commenced shall apply to and include obligations of the type provided for in this Agreement; 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 the appointment of a receiver, or trustee, or by execution or by any judicial or administrative decree or process, or otherwise, except with the consent of the Seller, and except the appointment of a receiver or trustee and the adoption by him of this Agreement within thirty (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 locomotives, or any of them, and exercise and enforce any and all other remedies as provided by Section 15 hereof.

(15) *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 15 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 15, 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.

(16) *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.

(17) *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.

(18) *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.

(19) *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.

(20) *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.

(21) *Section Headings.* All section, paragraph or division headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

(22) *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.

(23) *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.

(24) *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 pursuant to lawful resolutions, all as of the day, month and year first above written.

FAIRBANKS, MORSE & Co.,

By _____
Vice President.

Attest: _____
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.

Attest: Vila M. Graves
Assistant 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, J. A. LEHR, 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 12 day of August, 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 R. H. MORSE, JR. and L. W. STOLTE, to me personally known and known to me to be, respectively, a Vice-President and the ..... 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 ..... Secretary, respectively, in my presence and in the presence of the two witnesses, whose names are hereunto subscribed as such, and said R. H. MORSE, JR. and L. W. STOLTE, 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 R. H. MORSE, JR. resides in CHICAGO in the State of Illinois, and that said L. W. STOLTE resides in CHICAGO in the State of Illinois, that said R. H. MORSE, JR. is a Vice-President and said L. W. STOLTE is the ..... Secretary of Fairbanks, Morse & Co., the corporation described in and which

executed the within and foregoing instrument in writing; that they, said R. H. MORSE, JR., a Vice-President, and L. W. STOLTE, the ..... 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 the ..... 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 of 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 .....
Nov. 26, 1949.

J. A. Lehr
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 J. A. Lehr 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 20th day of Aug. A.D. 1947.

Michael J. Flynn
County Clerk.

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STATE OF ILLINOIS, } ss.
COUNTY OF COOK, }

I, Ruth E. Hall, 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 9th day of August, 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. Severa and Vila M. Graves, to me personally known and known to me to be, respectively, Vice President and Assistant 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 Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said J. W. Severa and Vila M. Graves, 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. Severa resides in Evanston in the State of Illinois, and that said Vila M. Graves resides in Chicago in the State of Illinois; that said J. W. Severa is Vice President and said Vila M. Graves

is Assistant 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. Severa, Vice President, and Vila M. Graves, 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 Vice President and 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 .....
Sept. 1, 1947.

Ruth E. Hall
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 Ruth E. Hall 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 20th day of Aug. A.D. 1947.

Michael J. Flynn
County Clerk.

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This Agreement and Assignment, dated as of June 12, 1947, 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 NORTHERN TRUST COMPANY**, a state banking corporation duly organized and existing under the laws of the State of Illinois 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 June 10, 1947 (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 Four (4) new 2000 HP Diesel Electric Passenger Locomotives, bearing Buyer's Road Numbers 21A, 21B, 22A, and 22B, (hereinafter sometimes referred to as the "Equipment"), all as more particularly described in said Agreement, for an aggregate purchase price of Seven Hundred Ninety-one Thousand, Two Hundred Twenty Dollars ($791,220.00) 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 Forty-nine Thousand, Eight Hundred Five Dollars ($49,805.00) for each 2000 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 manufacturing 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 2000 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 One Hundred Forty-eight Thousand Dollars ($148,000.00) 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 December 31, 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 NORTHERN TRUST COMPANY, 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 2000 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 December 31, 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 de-

mands 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 December 31, 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 indebtedness or liability at any time owing to Buyer by Seller, or the successor to its manufacturing business.

7. The Seller agrees that its warranty of materials and workmanship and its respective agreements as to replacement of defectively manufactured parts and as to indemnity of and saving harmless the Buyer from patent in-

fringement claims, which are set forth in Sections (6) and (10) of said Conditional Sale Agreement, shall extend in like manner, and upon like conditions, to and for the benefit of the Assignee and Assignee's respective and successive assigns.

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 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: _____
Secretary.

Signed, sealed and delivered by Fairbanks, Morse & Co. in the presence of:

_____

_____
Attesting Witnesses.

THE NORTHERN TRUST COMPANY,
By _____
Vice-President.

Attest: _____
Assistant Secretary.

Signed, sealed and delivered by The Northern Trust Company in the presence of:

_____

_____
Attesting Witnesses.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, J. A. LEHR, 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 12 day of August, 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 R. H. MORSE, JR. and L. W. STOLTE, to me personally known and known to me to be, respectively, a Vice-President and the ..... 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 ..... Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said R. H. MORSE, JR. and L. W. STOLTE, 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 witness that said R. H. MORSE, JR. resides in CHICAGO in the State of Illinois, and that said L. W. STOLTE resides in CHICAGO in the State of Illinois; and said R. H. MORSE, JR. is a Vice-President and said L. W. STOLTE is the ..... Secretary of Fairbanks, Morse & Co., the corporation described in and which executed the within and

foregoing instrument in writing; that they, said R. H. MORSE, JR. a Vice-President, and L. W. STOLTE, the ..... 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 the ..... 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 Nov. 26 1949.

J. A. Lehr
Notary Public in and for the State of Illinois, County of Cook.

Form 13A

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

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 J. A. Lehr 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 20th day of Aug 1947.

Michael J. Flynn
County Clerk.

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STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, Harold R. Shuler, ~~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 18 day of August, 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 John A. Prosser and J. J. Regan, to me personally known and known to me to be, respectively, a Vice-President and Assistant Secretary of The Northern Trust 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 Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said John A. Prosser and J. J. Regan, 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 John A. Prosser resides in Lake Forest in the State of Illinois, and that said J. J. Regan resides in Chicago in the State of Illinois; that said John A. Prosser is a Vice-President and said J. J. Regan is an Assistant Secretary of

The Northern Trust Company, the corporation described in and which executed the within and foregoing instrument in writing; that they, said John A. Prosser Vice-President, and J. J. Regan, 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 Vice-President and 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.

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 21st day of August A. D. 1947 at 12:00 o'clock A.M. and recorded in Vol. 40 of Railroad Mortgages on pages 57 ET SEQ.
Chas. S. Jim Northern Secretary of State

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 June 13th 1949.

Harold R. Shuler
Notary Public in and for the State of Illinois, County of Cook.

Form 13A

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

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 Harold R. Shuler 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 20th day of Aug 1947.

Michael J. Flynn
County Clerk.

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OFFICE OF SECRETARY
ILLINOIS CENTRAL RAILROAD CO.
CHICAGO, ILLINOIS

Illinois Central Equipment Trust

Series X

Lease of Railroad Equipment

DATED AUGUST 1, 1947

THE PENNSYLVANIA COMPANY FOR BANKING AND TRUSTS,
Trustee, Lessor

TO

ILLINOIS CENTRAL RAILROAD COMPANY, Lessee

Agreement

DATED AUGUST 1, 1947

GEORGE SMITH AND H. J. WYLIE, Vendors

WITH

THE PENNSYLVANIA COMPANY FOR BANKING AND TRUSTS,
Trustee

AND

ILLINOIS CENTRAL RAILROAD COMPANY

THE GUNTHORP-WARREN PRINTING COMPANY, 310 WEST JACKSON, CHICAGO

LEASE OF RAILROAD EQUIPMENT, dated the first day of August, 1947, between **THE PENNSYLVANIA COMPANY FOR BANKING AND TRUSTS**, a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, Trustee as hereinafter mentioned (hereinafter called the Trustee), Lessor, and party of the first part, and **ILLINOIS CENTRAL RAILROAD COMPANY**, a corporation duly organized and existing under the laws of the State of Illinois (hereinafter called the Company), Lessee, and party of the second part:

WHEREAS, by a certain Agreement, bearing date the first day of August, 1947, between George Smith and H. J. Wylie, Vendors, said The Pennsylvania Company for Banking and Trusts, as Trustee, and Illinois Central Railroad Company, a counterpart original whereof is hereto annexed and made a part hereof, there was constituted "Illinois Central Equipment Trust, Series X," under which 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 said Agreement, the railroad equipment hereinafter described 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:

That The Pennsylvania Company for Banking and Trusts, Trustee as aforesaid (acting in pursuance of said Agreement), party of the first part, for and in consideration as well of the sum of one dollar to it paid by Illinois Central Railroad 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 and covenants hereinafter mentioned to be paid, kept and performed by the Company, has let and leased, and does hereby let and lease, to the Company all the railroad equipment of the Illinois Central Equipment Trust, Series X (hereinafter collectively called the Trust Equipment), to wit:

500 33′ 50-ton Steel Hopper Cars numbered 70000 to 70499 inclusive; American Car & Foundry Company, builder.

500 33′ 50-ton Steel Hopper Cars numbered 70500 to 70999 inclusive; General American Transportation Corporation, builder.

400 33′ 50-ton Cor-Ten Steel Hopper Cars numbered 73600 to 73999 inclusive; General American Transportation Corporation, builder.

1 Tavern Coach Car numbered 3336; Pullman-Standard Car Manufacturing Company, builder.

1 Dining Car numbered 4110; Pullman-Standard Car Manufacturing Company, builder.

1 Parlor Bar Lounge Car numbered 3326; Pullman-Standard Car Manufacturing Company, builder.

1 Parlor Observation Car numbered 3311; Pullman-Standard Car Manufacturing Company, builder.

Together with such additional railroad equipment as shall be acquired for said trust and subjected to this Lease as hereinafter provided.

The estimated cost of the railroad equipment above specifically described, when completed, has been certified to the Trustee to be not less than $5,545,820.

In case the actual cost of said equipment specifically described shall not amount to at least said sum, then in addition to said equipment above specifically described, there may be acquired by the Vendors and subjected to this Lease (subject, however, to the provisions of Section 5 of Article I of said Agreement) other new standard gauge railroad rolling stock (other than work equipment), of

such cost that the aggregate cost of all the Trust Equipment will be at least said sum; 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 said Agreement, and such additional equipment shall be part of the Trust Equipment, subject to all the terms and conditions hereof and of said Agreement in all respects as though it had been part of the original Trust Equipment herein described.

As and when the Trust Equipment shall from time to time be transferred and delivered to the Trustee under said Agreement and marked in accordance with the provisions of Article Fourth hereof, the same shall be delivered to the Company, and shall upon such delivery to the Company *ipso facto*, and without further instrument 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:

First. The Company hereby accepts (subject to the conditions mentioned in said Agreement) 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 the Company covenants and agrees to pay to the Trustee or its successors or assigns (or in the case of taxes, to the proper taxing authority), in such coin or currency of the United States of America as, at the time of payment, is legal tender for the payment of public and private debts in the

(Fee $22.50)

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United States of America, rent hereunder which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable:

(a) From time to time, as and when Trust Certificates are issued and sold, such amounts of cash, if any, as may be necessary, when added to the net proceeds of the sale of the Trust Certificates (exclusive of accrued dividends), to make the total sum deposited with the Trustee equal to the aggregate principal amount of the Trust Certificates so issued and sold.

(b) From time to time, as and when any of the Trust Equipment shall be delivered to the Company, amounts in cash equal to the difference between the cost of the Trust Equipment so delivered, as certified to the Trustee by the President, or a Vice President of the Company, and the amount of Deposited Cash (as defined in Section 3 of Article I of said Agreement) payable to the Vendors in respect thereof as provided in Section 3 of Article I of said Agreement, provided that the aggregate of all amounts so paid to the Trustee shall never be less than 20 per cent of the cost of all the Trust Equipment which shall then and theretofore have been delivered hereunder.

(c) The necessary and reasonable expenses of the trust, including all expenses connected with the Trust Equipment and this Lease thereof; expenses incurred or sustained by the Trustee in connection with any purchase or sale of Government Securities; and, when and as demanded by the Trustee, any sums which shall be required in order to enable the Trustee to restore to Deposited Cash, in accordance with the provisions of Section 9 of Article V of said Agreement, the full amount or amounts thereof which it shall have invested in Government Securities.

(d) Any and all taxes, assessments and governmental charges upon the income or property of the trust, or the agreements evidencing the same, which the Trustee under said Agreement may be required to pay, but excluding any and all taxes, assessments

and governmental charges which the Company or the Trustee may be required to pay or to retain from the principal of the Trust Certificates issued as provided in said Agreement (herein called the Trust Certificates) or from the dividends payable thereon, under any present or future law of the United States of America or of any state, county, municipality or other taxing authority therein.

(e) The dividend warrants attached to the Trust Certificates when and as the same shall become payable, and in case of the issue of temporary certificates without dividend warrants, the dividends accrued and payable thereunder.

(f) The principal of all the Trust Certificates which shall have been issued and are then outstanding when and as the same shall become payable, whether by declaration or upon the respective dates of maturity thereof, to wit:

February 1, 1948	$220,000
August 1, 1948	220,000
February 1, 1949	220,000
August 1, 1949	220,000
February 1, 1950	220,000
August 1, 1950	220,000
February 1, 1951	220,000
August 1, 1951	220,000
February 1, 1952	220,000
August 1, 1952	220,000
February 1, 1953	220,000
August 1, 1953	220,000
February 1, 1954	220,000
August 1, 1954	220,000
February 1, 1955	220,000
August 1, 1955	220,000
February 1, 1956	220,000
August 1, 1956	220,000
February 1, 1957	220,000
August 1, 1957	220,000

(g) If default shall be made in the full payment of any of such dividend warrants, dividends or principal when and as the same shall become due and payable

as aforesaid, interest on such unpaid dividend warrants, dividends or principal at the dividend warrant rate.

The Company shall not be required, however, to pay any tax, assessment or 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 Trust Certificate holders may be materially endangered.

Second. This Lease shall continue in force until the rent so paid hereunder shall furnish moneys sufficient to meet, discharge and cancel all the interests in said Illinois Central Equipment Trust, Series X, created in respect of the Trust Equipment, and the dividends thereon, as well as the other payments and charges aforesaid. At the termination of this Lease and after all such payments shall have been completed and fully made to the Trustee, the Trust Equipment hereby leased shall be assigned and transferred by the Trustee to the Company or its nominee or nominees, and shall be and become the absolute property of 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 ownership of all the Trust Equipment shall be reserved to and remain in the Trustee, notwithstanding the delivery of the Trust Equipment to and the possession and use thereof by the Company.

Third. It being desirable for the interests of both parties to this Lease that any of the Trust Equipment which in any respect shall have become unsuitable for the use of the Company shall be promptly sold and replaced, it is hereby agreed that upon the written request of the Com-

pany, stating that the use of any of the Trust Equipment is no longer required by the Company, evidenced by a resolution of its Board of Directors or Executive Committee, the Trustee will, while the Company is not in default hereunder, sell such equipment and execute and deliver a bill of sale assigning and transferring to the purchaser the absolute title thereto; provided, however, that none of the Trust Equipment shall be so assigned or transferred, unless simultaneously 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 said purchase price is less than the fair value of the equipment sold at the time of sale. For this purpose the fair value of the sold equipment shall be considered to be the original cost thereof less five per cent (5%) of said original cost for each full year elapsed since the delivery to the Company hereunder of the sold equipment. The sums so paid to the Trustee shall be applied by it to the purchase of other new standard gauge railroad rolling stock (other than work equipment) as specified by the Company, free from liens, and upon the delivery of such other equipment to the Trustee accompanied by a bill or bills of sale, an opinion of counsel and a certificate as to delivery and cost in like manner as is provided in Section 4 of Article I of said Agreement. Until so applied by the Trustee, said sums shall be held by the Trustee in trust for the benefit of the holders of the Trust Certificates and dividend warrants. Any equipment so acquired and substituted shall be marked in accordance with the provisions of Article Fourth hereof and immediately upon being so marked shall be part of the Trust Equipment, subject to all of the terms and conditions hereof and of said 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 a supplemental lease thereof, describing the same, upon and subject to all the terms and conditions hereof. The term "Trust Equipment," wherever used herein, unless otherwise indicated by the context, is intended to include any equipment so acquired or otherwise subjected to this Lease or required or intended so to be.

Fourth. At or before the delivery to the Company of each unit of equipment constituting the Trust Equipment, there shall be plainly, distinctly, permanently and conspicuously placed and fastened upon each side of each thereof a metal plate bearing the following words, or such words shall be otherwise plainly, distinctly, permanently and conspicuously marked on each side of each thereof, in either case with appropriate changes thereof or additions thereto as from time to time may be required by law in order to protect the interest of the Trustee, in letters not less than one inch in size:

"Illinois Central Equipment Trust, Series X, The Pennsylvania Company for Banking and Trusts, Philadelphia, Pa., Trustee, Owner and Lessor."

Such plate or marks shall be such as to be readily visible and as to indicate plainly the Trustee's ownership of said 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 cause the same to be restored, or replaced. The Company will not change, or permit to be changed, the numbers upon equipment covered by this Lease (nor any numbers which may be substituted as herein provided), except in accordance with a statement of new numbers to be substituted therefor, which shall previously have been filed with the Trustee by the Company.

The Trust Equipment may be lettered "Illinois Central

Railroad Company," "Illinois Central," "I. C.," 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. Nothing in this paragraph shall prohibit the use of equipment herein leased under any pooling arrangement that may be required during the life thereof by governmental agencies, or that may be desired by the Company, so long as identification of the leasehold interest of the Company is evidenced, and where it becomes necessary to show the name of any person, association or corporation on any of the Trust Equipment, such designation shall be in a manner that will not cause interpretation of a claim of ownership thereof by the Company or by any person, association or corporation other than the Trustee.

Fifth. (a) The Company, during the continuance of this Lease, will maintain and keep all of the Trust Equipment in good order and repair, at its own proper cost and charge, and will replace, at its own cost, any of the Trust Equipment that may be worn out, lost or destroyed, by other new standard gauge railroad rolling stock (other than work equipment) of a value at least equal to the fair value (determined as provided in Article Third hereof), immediately prior to the wearing out, loss or destruction of the Trust Equipment so replaced, the value of such other rolling stock to be figured at cost if that be below market value, or at market value if that be below cost. The title to all rolling stock procured for such replacement shall be taken in the name of the Trustee, free from liens,

and such rolling stock shall be marked in accordance with the provisions of Article Fourth hereof. At the time of every such replacement the Company shall deliver to the Trustee a certificate of the President, or a Vice-President of the Company stating the fair value, determined as aforesaid, of the Trust Equipment so worn out, lost or destroyed, as of a date immediately prior to such wearing out, loss or destruction, and the cost and the reasonable market value of such replacement, and for the purposes of this paragraph, the Trustee may conclusively rely thereon. In addition the Company shall furnish the Trustee with bills of sale of such other equipment from the manufacturers or owners to the Trustee and a certificate as to delivery in like manner as provided in Section 4 of Article I of the Agreement, together with an opinion of counsel satisfactory to the Trustee (who may be counsel to the Company) that such bills of sale are valid and effective, either alone or with other instruments executed in connection therewith, to vest in the Trustee, free from all liens and encumbrances, the title to such equipment.

(b) The Company covenants and agrees to furnish to the Trustee, whenever required by the Trustee, and at least once in every year during the continuance of this Lease, an accurate statement of the amount, description and numbers of the Trust Equipment then covered hereby, and the amount, description and numbers of all that may have been worn out, lost or destroyed by accident or otherwise, and the number of cars repaired during the previous year. Together with said statement the Company shall also furnish to the Trustee a statement signed by its General Superintendent of Equipment, stating that in the case of all of the Trust Equipment repainted during the preceding year, the mark required by Article Fourth hereof has been preserved, or that the same when repainted has been again marked as

required by said Article. And the Trustee shall have the right, by its agents, to inspect the Trust Equipment once in every year during the continuance of this Lease.

(c) The Company covenants and agrees to indemnify and protect the Trustee in the use of any and all patented inventions employed in and about the Trust Equipment and to comply in all respects with the laws of the United States of America and of all the states in which the Trust Equipment or any thereof may be operated and with all lawful acts, rules, regulations and orders of the Interstate Commerce Commission and of all other commissions, boards and other legislative, executive, administrative or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; provided, however, that the Company may in good faith contest the validity of any such law, act, rule, regulation or order or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Trustee, materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates.

Sixth. The Company, so long as it shall not be in default under this lease, shall be entitled to the possession of the Trust Equipment and the use thereof upon the lines of railroad owned or operated by it or over which it has trackage rights, and upon connecting and other railroads in the usual interchange of traffic, from and after the delivery of the Trust Equipment by the Trustee to the Company, but only upon and subject to all the terms and conditions of this Lease.

The Company will not either assign or transfer this Lease, or transfer or sublet the Trust Equipment or any

part thereof, without the written consent of the Trustee first had and obtained; and the Company shall not, without such written consent, except as hereinbefore provided, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment (except as to any pooling arrangement that may be required by any governmental agency or which may seem desirable on the part of the Company as provided in Article Fourth hereof, but in any event consent of the Trustee shall be obtained first before such arrangements are placed in effect). A transfer to a railroad company which shall acquire all or substantially all of the lines of railroad of the Company, and which shall assume and agree to perform each and all of the obligations of the Company hereunder and under said Agreement, shall not be deemed a breach of this covenant, nor shall the appointment of a temporary receiver or receivers, trustee or trustees, for the Company or its property be deemed such a breach; but the appointment of a permanent receiver or receivers, trustee or trustees, or the approval by a court of competent jurisdiction of a petition under Section 77 of the Bankruptcy Act, or any transfer through insolvency or under judicial process, shall be deemed a breach of this covenant. The Trustee shall have the right to declare this Lease terminated in case of any unauthorized assignment or transfer of this Lease or transfer or sublease of the Trust Equipment. The election of the Trustee to terminate this Lease under this clause shall have the same effect as the retaking of the Trust Equipment by the Trustee as hereinafter provided.

Seventh. In case the Company

(1) shall make default in the payment of any part of said rent for more than thirty (30) days after the same shall become due and payable, or

(2) shall make or suffer any unauthorized assign-

ment or transfer of its rights or interest in, or any unauthorized sublease of, the Trust Equipment, or any part thereof, and shall fail or refuse either to cause such assignment or transfer or sublease to be cancelled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within thirty days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said thirty days to deposit with the Trustee a sum in cash equal to the original cost of the Trust Equipment so assigned or transferred or subleased, as certified to the Trustee by the President or a Vice-President of the Company (any sum so deposited to be returned to the Company upon the cancellation of such assignment, transfer or sublease and the recovery of possession by the Company of such Trust Equipment), or

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

then, in any such case (herein and in said Agreement sometimes called events of default), the Trustee at its option may by its agents, enter upon the railroads and premises of the Company and take possession of all or any part of the Trust Equipment, and withdraw the same from said railroads and premises, retaining all payments which up to that time may have been made on account of rental for the Trust Equipment and otherwise, and shall be entitled to collect, receive and retain all unpaid per diem, mileage or other charges of any kind earned by the Trust Equipment or any thereof, and may lease the Trust Equipment or any part thereof, or sell the same or any part thereof, so far as

may be necessary to perform and fulfill the trusts under said Agreement, at public or private sale, for cash or upon credit, in its discretion, and otherwise proceed to enforce its rights and the rights of the owners of interests under said Agreement and under this Lease in the manner therein and herein provided; and upon such taking possession or withdrawal or lease or sale of the Trust Equipment, the Company shall cease to have any rights or remedies in respect of the Trust Equipment under this Lease, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Company; and no payments theretofore made by the Company for the rent or use of the Trust Equipment, or any of it, shall, in case of the happening of any such event of default and such taking possession, withdrawal, lease or sale by the Trustee, give to the Company any legal or equitable interest or title in or to the Trust Equipment, or any of it, or any cause or right of action, at law or in equity, in respect of the Trust Equipment against the Trustee or the owners of interests in said Illinois Central Equipment Trust, Series X; and such taking possession or withdrawal or lease or sale of the Trust Equipment by the Trustee shall not be a bar to the recovery by the Trustee from the Company for rentals then or thereafter due and payable, and the Company shall be and remain liable for the same, until such sum shall have been realized as with the proceeds of the lease or sale of the Trust Equipment shall be sufficient for the discharge and payment in full of all the various items mentioned in subdivisions (a), (b), (c), (d), (e), (f) and (g) of Article First hereof, whether they shall have then matured or not.

In case the Trustee shall rightfully demand possession of the Trust Equipment in pursuance of this Lease, and shall reasonably designate a point or points upon the railroad of the Company, or upon the railroad of any company a majority of whose capital stock is at the time directly or

indirectly owned 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 the usual speed of freight trains, cause the Trust Equipment to be moved to such point or points on said railroads as shall be designated by the Trustee and will there deliver or cause to be delivered the same to the Trustee; or at the option of the Trustee it 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 have disposed of the same, and for such purpose the Company agrees to furnish without charge for rent or storage 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 of equity having jurisdiction in the premises the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

The remedies in this Lease and in said Agreement provided in favor of the Trustee and the holders of Trust Certificates, or any of them, shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity.

Eighth. This Lease shall be simultaneously executed in twenty-five 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.

The Pennsylvania Company for Banking and Trusts, Trustee, doth hereby constitute and appoint Wm. M. David to be its attorney for it, and in its name and as and for its corporate act and deed to acknowledge this Lease, before any person having authority by the laws of the Commonwealth of Pennsylvania or elsewhere to take such

acknowledgment, to the intent that the same may be duly recorded.

Illinois Central Railroad Company doth hereby constitute and appoint R. E. Connolly to be its attorney for it, and in its name and as and for its corporate act and deed to acknowledge this Lease, before any person having authority by the laws of the Commonwealth of Pennsylvania or elsewhere to take such acknowledgment, to the intent that the same may be duly recorded.

IN WITNESS WHEREOF, the Trustee, acting in accordance with the terms and conditions of said Agreement, and the Company, 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.

THE PENNSYLVANIA COMPANY FOR BANKING AND TRUSTS,

Trustee,

By Wm. M. David
Vice-President.

Attest: Robert H. Tice
Assistant Secretary.

Signed, sealed and delivered by The Pennsylvania Company for Banking and Trusts in the presence of:

O B Gibbins

E A Hunter

ILLINOIS CENTRAL RAILROAD COMPANY,

By R E Connolly
Vice-President.

Attest: A Shutts
Assistant Secretary.

Signed, sealed and delivered by Illinois Central Railroad Company in the presence of:

O B Gibbins

E A Hunter

UNITED STATES OF AMERICA,
STATE OF NEW YORK,
COUNTY OF NEW YORK. } ss.

I, JOHN M. BOYCE, a notary public in and for the County of New York, State of New York, do hereby certify and be it remembered that the above annexed and foregoing instrument of writing was produced to me in my county by the parties thereunto on this 21ST day of August, 1947, and that this day at the same time before me the undersigned, a notary public duly commissioned and qualified within and for the county aforesaid personally and in person came and appeared the above and within-named Wm. M. David, Vice-President of the above-named The Pennsylvania Company for Banking and Trusts, a corporation duly organized, incorporated and existing under and by the laws of the Commonwealth of Pennsylvania, and Robert H. Tice, Assistant Secretary of said The Pennsylvania Company for Banking and Trusts, one of the corporations described in and that executed the within instrument, with each of whom I am personally acquainted, and who are to me known and personally known to me to be the same identical persons whose names are affixed, signed and subscribed to said instrument and whose names are signed to the foregoing instrument as such Vice-President and Assistant Secretary, respectively, as having executed the same, and who are personally known to me to be such Vice-President and Assistant Secretary, officers of the corporation described in the within instrument, having authority to execute such instrument, 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-Presi-

dent and Assistant Secretary, respectively, of said The Pennsylvania Company for Banking and Trusts, a corporation party thereunto, to be the act and deed of said corporation by them as Vice-President and Assistant Secretary, respectively, and the said Robert H. Tice, as Assistant Secretary of said corporation, attested and proved before me, the seal of said corporation as affixed to said instrument; and furthermore, they severally upon oath acknowledged themselves before me and in the presence of said witnesses to be the Vice-President and Assistant Secretary, respectively, of said corporation, the within-named party of the first part, and further severally acknowledged to me the execution of the said foregoing instrument on behalf of said corporation and they severally acknowledged the execution of the same to be the act and deed of said corporation, that such corporation executed the same and that being informed of the contents of the instrument they, as such Vice-President and Assistant Secretary, respectively, with full authority as such officers and 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 acts and deeds as such Vice-President and Assistant Secretary, respectively, for the consideration, uses and purposes therein set forth.

And at the same time the said Wm. M. David, being by me duly sworn, did depose and say that he resides in the City of Philadelphia, in the County of Philadelphia, Commonwealth of Pennsylvania; that he is a Vice-President of said The Pennsylvania Company for Banking and Trusts, one of the corporations described in and which exe-

cuted the above instrument; that he knows the seal of said corporation; that the said 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 order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order and he acknowledged said instrument to be the voluntary act and deed of said corporation.

And I do hereby further certify that the foregoing instrument was executed 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, and have caused said appearers and witnesses to sign this acknowledgment.

John M Boyce
Notary Public.

I am not a Stockholder, Director or Officer of the within mentioned Corporation.

John M Boyce
Notary Public.

Appearers:

W M. Daniel
Robert B Rice

JOHN M. BOYCE
Notary Public, State of New York
Residing in New York County
NY. Co. Clk's No. 122, Reg. No. 1920-B-9
Kings Co. Clk's No. 21, Reg. No. 161-B-9
Queens Co. Clk's No. 2246, Reg. No. 745-9
Bronx Co. Clk's No. 23, Reg. No. 227-B-9
Richmond Co. Clk's No. 2-B
Commission Expires March 30, 1949

Witnesses:

D B Gibbons
E S Hunter

UNITED STATES OF AMERICA,
STATE OF NEW YORK,
COUNTY OF NEW YORK. } ss.

I, JOHN M. BOYCE, a notary public in and for the County of New York, State of New York, do hereby certify and be it remembered that the above annexed and foregoing instrument of writing was produced to me in my county by the parties thereunto on this 21st day of August, 1947, and that this day at the same time before me the undersigned, a notary public duly commissioned and qualified within and for the county aforesaid personally and in person came and appeared the above and within-named R. E. Connolly, Vice-President of the above-named Illinois Central Railroad Company, a corporation duly organized, incorporated and existing under and by the laws of the State of Illinois, and A. B. Huttig, Assistant Secretary of said Illinois Central Railroad Company, one of the corporations described in and that executed the within instrument, with each of whom I am personally acquainted, and who are to me known and personally known to me to be the same identical persons whose names are affixed, signed and subscribed to said instrument and whose names are signed to the foregoing instrument as such Vice-President and Assistant Secretary, respectively, as having executed the same, and who are personally known to me to be such Vice-President and Assistant Secretary, officers of the corporation described in the within instrument, having authority to execute such instrument, 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, respec-

tively, of said Illinois Central Railroad Company, a corporation party thereunto, to be the act and deed of said corporation by them as Vice-President and Assistant Secretary, respectively, and the said A. B. Huttig, as Assistant Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore they severally upon oath acknowledged themselves before me and in the presence of said witnesses to be the Vice-President and Assistant Secretary, respectively, of said corporation, the within-named party of the second part, and further severally acknowledged to me the execution of the said foregoing instrument on behalf of said corporation and they severally acknowledged the execution of the same to be the act and deed of said corporation, that such corporation executed the same and that being informed of the contents of the instrument they, as such Vice-President and Assistant Secretary, respectively, with full authority as such officers and 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 acts and deeds as such Vice-President and Assistant Secretary, respectively, for the consideration, uses and purposes therein set forth.

And at the same time the said R. E. Connolly, being by me duly sworn, did depose and say that he resides in Flossmoor, in the County of Cook, State of Illinois; that he is a Vice-President of said Illinois Central Railroad Company, one of the corporations described in and which executed the above instrument; that he knows 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 order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order and he acknowledged said instrument to be the voluntary act and deed of said corporation.

And I do hereby further acknowledge 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, and have caused said appearers and witnesses to sign this acknowledgment.

John M Boyce
Notary Public.

I am not a Stockholder, Director or Officer of the within mentioned Corporation.

John M Boyce
Notary Public.

Appearers:

R E Connolly
A B Huttig

Attesting Witnesses:

D B Gibbons
E S Hunter

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

No. 50223

Form 1

I, ARCHIBALD R. WATSON, County Clerk and Clerk of the Supreme Court, New York County, a Court of Record having by law a seal, DO HEREBY CERTIFY that

JOHN M BOYCE

whose name is subscribed to the annexed affidavit, deposition, certificate of acknowledgment or proof, was at the time of taking the same a NOTARY PUBLIC in and for the State of New York, duly commissioned and sworn and qualified to act as such throughout the State of New York; that pursuant to law a commission, or a certificate of his appointment and qualification, and his autograph signature, have been filed in my office; that as such Notary Public he was duly authorized by the laws of the State of New York to administer oaths and affirmations, to receive and certify the acknowledgment or proof of deeds, mortgages, powers of attorney and other written instruments for lands, tenements and hereditaments to be read in evidence or recorded in this State, to protest notes and to take and certify affidavits and depositions; and that I am well acquainted with the handwriting of such Notary Public, or have compared the signature on the annexed instrument with his autograph signature deposited in my office, and believe that the signature is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 7 day of Aug 1947

Archibald R Watson

County Clerk and Clerk of the Supreme Court, New York County

FEE PAID 25¢

THIS AGREEMENT, dated the first day of August, 1947, by and between **GEORGE SMITH** and **H. J. WYLIE** (hereinafter called the Vendors), of the first part, **THE PENNSYLVANIA COMPANY FOR BANKING AND TRUSTS** (hereinafter called the Trustee), of the second part, and **ILLINOIS CENTRAL RAILROAD COMPANY** (hereinafter called the Company), of the third part, WITNESSETH as follows:

WHEREAS, the Vendors have contracted or will contract to acquire the railroad equipment specifically described in the Lease of Railroad Equipment from the Trustee to the Company prefixed to this Agreement, to which Lease reference is hereby made; and

WHEREAS, subscriptions have been or will be secured from time to time for the aggregate principal amount of four million four hundred thousand dollars ($4,400,000) to a fund to be known as the Illinois Central Equipment Trust, Series X, 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 in case said railroad equipment shall not cost at least $5,545,820, other railroad equipment of such cost that the aggregate cost of all railroad equipment acquired for said trust (in said Lease and hereinafter called the Trust Equipment) shall be at least $5,545,820; and

WHEREAS, said Vendors desire to secure to the parties subscribing to said fund, or their assigns, the payment of the amount thereof in twenty semi-annual installments, payable respectively on February 1 and August 1 in each year, from February 1, 1948 to August 1, 1957, both inclusive, as hereinafter more particularly provided, with dividends to said dates of maturity respectively at the rate or rates per

annum determined as hereinafter provided, from August 1, 1947, payable semi-annually on February 1 and August 1, in each year; and to evidence the rights of the subscribers to said fund by Trust Certificates in substantially the form hereinafter set forth;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE MUTUAL COVENANTS HEREIN CONTAINED, THE PARTIES HERETO AGREE AS FOLLOWS:

ARTICLE I.

SECTION 1. 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 owners of the Trust Certificates hereinafter described, the Trust Equipment, and also all claims, demands and remedies of said Vendors accruing or to accrue under their contract or contracts for the construction and delivery of the Trust Equipment. The Vendors will deliver, or cause to be delivered, the Trust Equipment 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 and agents of the Company, and the certificate of any and every agent so designated shall be conclusive evidence of such delivery. The Trustee and the Company shall simultaneously herewith execute and deliver the Lease of Railroad Equipment prefixed hereto.

SECTION 2. The Trustee shall at any time, or from time to time, but not later than January 15, 1948, upon request of the Vendors, and without awaiting the registration, filing or recording of this agreement or of said Lease, execute and deliver to the Vendors, or upon their order, for distribution to said several subscribers, Trust Certificates (hereinafter called the Trust Certificates) to such principal amount as shall be designated in such request, not exceeding in the aggregate $4,400,000, upon the deposit in cash with

the Trustee, or to its credit with such banks or bankers in the City of New York as may be designated by the Vendors and approved by the President or a Vice-President of the Company, and also approved by a Vice-President or the Secretary of the Trustee, of an amount equal to the proceeds of the sale of the Trust Certificates the execution and delivery of which shall be so requested, together with any installments of rental due under subdivision (a) of Article First of said Lease, the aggregate amount of said deposits to be not less than four million four hundred thousand dollars ($4,400,000). The Trustee may likewise cause to be deposited with such banks or bankers the installments of rental payable to it on each delivery of Trust Equipment pursuant to subdivision (b) of Article First of said Lease and any sums received by it pursuant to Article Third of said Lease.

Any interest allowed by the Trustee or said banks or bankers upon any moneys so deposited shall belong to the Company, and be paid to it by or upon the order of the Trustee, so long as it shall not be in default hereunder or under said Lease, in lieu of the use of the Trust Equipment for the period before the delivery thereof. The certificates of the banks or bankers so designated, stating that they hold a stated amount subject to the order of the Trustee, shall be full protection to the Trustee for its action on the faith thereof. Said banks or bankers shall be fully protected in paying said moneys so deposited with them, and any such interest, to or upon the order of the Trustee, and shall be under no obligation to see to the application thereof in accordance with the provisions of this Agreement.

SECTION 3. The cash deposited with or to the credit of the Trustee, constituting said fund, or a part thereof, as in Section 2 of this Article I provided, the rentals, if any, under subdivision (a) of Article First of said Lease deposited with or to the credit of the Trustee, any sums restored to Deposited Cash from rentals under subdivi-

sion (c) of Article First of said Lease (the aggregate of said sums hereinabove in this Section 3 mentioned being hereinafter called the Deposited Cash), and any installments of advance rental payable on delivery of Trust Equipment pursuant to subdivision (b) of Article First of said Lease, shall, until paid out by the Trustee, as herein provided, be held for the benefit of the holders of the Trust Certificates. Whenever from time to time any of the Trust Equipment shall thereafter be transferred and delivered to the Trustee, the Trustee shall, if requested so to do, subject to the provisions of Section 4 of this Article I, pay to the Vendors, or upon their order, out of the Deposited Cash, an amount equal to 80 per cent of the cost of the Trust Equipment so transferred and delivered to it, and shall make payment of the remainder thereof out of the installment of rental payable on such delivery pursuant to subdivision (b) of Article First of said Lease.

SECTION 4. The Trustee shall not pay out any Deposited Cash against the delivery of any of the Trust Equipment unless and until it shall have received

(a) a certificate of the agent or agents designated by the Trustee to receive delivery of the Trust Equipment stating that Trust Equipment specified by number in such certificate has been delivered to such agent or agents and marked in accordance with the provisions of Article Fourth of said Lease;

(b) a bill or bills of sale of such Trust Equipment from the manufacturers or owners to the Trustee, containing or accompanied by a warranty or guaranty of such manufacturers or owners to the Trustee that the title to the Trust Equipment described therein is free from all liens and encumbrances;

(c) an opinion of counsel satisfactory to the Trustee (who may be counsel to the Company) that such bill or bills of sale are valid and effective to vest in the Trustee, free from all liens and encumbrances, the title to such Trust Equipment;

(d) in case of any of the Trust Equipment not specifically described in the Lease but acquired as hereinafter in Section 5 of this Article I provided, an opinion of counsel satisfactory to the Trustee (who may be counsel to the Company) that a proper supplemental lease of said equipment from the Trustee to the Company has been duly executed by the Trustee and the Company and is sufficient in form to permit it to be duly filed or recorded in all states wherein this Agreement and said Lease are required to be filed or recorded; and

(e) a certificate as to the cost of such Trust Equipment signed by the President, or a Vice-President of the Company, which certificate may state either that the cost of such Trust Equipment is an amount therein specified or that the cost of such Trust Equipment is not less than an amount therein specified, and shall be conclusive evidence of such cost.

SECTION 5. The Company, in case the total cost of the railroad equipment specifically described in said Lease shall not be at least $5,545,820, will, for account of the Vendors, cause to be vested in the Trustee by the manufacturers or owners thereof, absolutely and free from all liens and encumbrances, additional new standard gauge railroad rolling stock, (other than work equipment), approved as to character by the Company, of such cost that the total cost of all railroad equipment acquired for the Trust by this Agreement created will be at least $5,545,820; and upon the transfer and delivery of such new railroad equipment to the Trustee, the same shall be and become a part of the Trust Equipment. Upon such transfer and delivery, the Vendors shall be entitled to receive the payments provided for by Section 3 of this Article I upon the terms and conditions therein contained.

As used in this Agreement and in said Lease, the term "cost" of the Trust Equipment shall include the cost represented by bills of the manufacturers and additional

charges such as cost of inspection, miscellaneous personal property, and the like, 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, the certificate of the Vendors as to the cost of the materials or parts purchased by the Vendors and furnished by them to the manufacturers, 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 (as shown by certificates of the Vendors), on the price of the Trust Equipment or any parts or materials thereof, which have been or may hereafter be allowed to the manufacturers, the Vendors or the Company 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 prior to or contemporaneously with such payments, and which bills and certificates shall be verified and approved in a manner satisfactory to the Trustee by the Company and by said Vendors, acting through agents duly authorized, after which said bills and certificates shall conclusively establish the total cost of the Trust Equipment. In the event that the Vendors are unable to certify the total cost of any unit of such Trust Equipment with complete accuracy at the time of the delivery to the Trustee of the bill of sale herefor, said certificate may state that the total cost therein stated is estimated and the Company and the Vendors covenant and agree in each such case to certify, in the manner above set forth, a final and accurate certificate of total cost as soon as the complete figures are available, and at the same time to pay to the Trustee the amount, if any, by which the estimated total cost shall have exceeded the actual total cost. The Trustee shall be authorized to make payment from time to time to the Vendors, or upon their order,

against tentative certificates of total cost, and may at all times conclusively rely upon the final certificates of total cost as furnished to it by the Vendors.

SECTION 6. The provisions of the preceding sections of this Article I are intended to permit (upon compliance with the conditions and requirements thereof) deliveries from time to time of portions of the Trust Equipment listed in any one item of the description thereof contained in the aforesaid Lease, or any supplement thereto, and the payment out of the Deposited Cash or out of the installment of rental payable on such delivery pursuant to the subdivision (b) of Article First of said Lease, as against such deliveries; and shall not be construed as requiring deliveries of all of the equipment listed in any one item of such description as a condition to such issuance or payment.

SECTION 7. 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 four million four hundred thousand dollars ($4,400,000) at any one time outstanding, subject, however, to the provisions of Section 6 of Article II hereof.

ARTICLE II.

SECTION 1. Each of the Trust Certificates shall represent an interest to the amount of one thousand dollars ($1,000) in the trust of the Trust Equipment hereby created, and the holder or registered owner thereof shall be entitled to receive dividends on said amount from August 1, 1947, payable semi-annually on the first day of February and of August in each year. Whenever Trust Certificates shall be issued hereunder from time to time pursuant to Section 2 of Article I hereof, the installment of Trust Certificates so

issued shall consist of Trust Certificates becoming due and payable in twenty equal semi-annual maturities. No instalment of Trust Certificates shall be executed and delivered under this Agreement after January 15, 1948. The respective maturity dates of the Trust Certificates, when issued shall be as follows:

Date of Maturity	Principal amount not exceeding
February 1, 1948	$220,000
August 1, 1948	220,000
February 1, 1949	220,000
August 1, 1949	220,000
February 1, 1950	220,000
August 1, 1950	220,000
February 1, 1951	220,000
August 1, 1951	220,000
February 1, 1952	220,000
August 1, 1952	220,000
February 1, 1953	220,000
August 1, 1953	220,000
February 1, 1954	220,000
August 1, 1954	220,000
February 1, 1955	220,000
August 1, 1955	220,000
February 1, 1956	220,000
August 1, 1956	220,000
February 1, 1957	220,000
August 1, 1957	220,000

The due date of each Trust Certificate and the rate of dividend payable thereon shall appear upon its face. The Trust Certificates shall be numbered from 1 consecutively upward to 4,400, both inclusive.

Dividend warrants evidencing the right of the holders of the Trust Certificates to the dividends thereon, shall be annexed to the respective Trust Certificates. Dividends on the first instalment of Trust Certificates issued hereunder, in the aggregate principal amount of $1,200,000, shall be payable at the rate of ..... per centum (.....%) per annum; dividends on any instalment of Trust Certificates issued thereafter (but not later than January 15, 1948) shall be payable in each case at a rate to be determined, at the time of delivery thereof by the Trustee, by written instructions from the Vendors and the Company to the Trustee. All dividends on the respective Trust Certificates shall cease after the principal thereof shall have become due.

SECTION 2. The Trust Certificates, the dividend warrants to be annexed thereto, and the guaranty to be endorsed thereon by the Company as hereinafter in Article III provided, shall be in substantially the following forms:

(Form of Trust Certificate)

Number .....

$1,000 $1,000

ILLINOIS CENTRAL EQUIPMENT TRUST,

Series X.

Total Authorized Issue $4,400,000.

Dividends at the Rate of ..... Per Cent (....%) Per Annum

Payable February 1 and August 1.

The Pennsylvania Company for Banking and Trusts, of Philadelphia, Pennsylvania, Trustee.

Principal hereof due ..... 1, 19.....

The Pennsylvania Company for Banking and Trusts, Trustee under an Agreement dated August 1, 1947, between George Smith and H. J. Wylie, Vendors, parties of the first part, The Pennsylvania Company for Banking and Trusts, Trustee, party of the second part, and Illinois Central Railroad Company, party of the third part, hereby certifies that the bearer hereof, or if this certificate be registered, the registered holder hereof, is entitled to an interest of One Thou-

sand Dollars ($1,000) in the Illinois Central Equipment Trust, Series "X", payable on ..... 1, 19....., and to dividends thereon at the rate of ..... per cent (.....%) per annum, from August 1, 1947, to said date of maturity, payable semiannually on the first day of February and the first day of August 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 agency of the Trustee in the Borough of Manhattan in the City of New York in the 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 rentals received by the Trustee from a certain Lease of Railroad Equipment made by The Pennsylvania Company for Banking and Trusts, Trustee, to Illinois Central Railroad Company, dated August 1, 1947.

This certificate is one of an issue of certificates in an aggregate principal amount not exceeding Four Million Four Hundred Thousand Dollars ($4,400,000), issuable in two or more installments, all such certificates to be substantially identical in tenor except as to dates of maturity and dividend rate thereon, and 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 from time to time in varying amounts against the payment 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, in whole or in part, from time to time and in varying amounts upon delivery and receipt of said railroad equipment and for the purpose of providing for the purchase of said railroad equipment. Reference is made to the Agreement and Lease filed with the Trus-

tee at its principal office in the City of Philadelphia in the Commonwealth of Pennsylvania for a further statement of the rights of the bearer or registered holder hereof, the rights and the duties of the Trustee, and the obligations of Illinois Central Railroad Company under said Agreement and Lease.

This certificate may be registered as to principal in the name of the holder hereof at the agency of the Trustee in the Borough of Manhattan in the City of New York, in the State of New York, and such registration shall be noted hereon by or on behalf of the Trustee. Thereafter title to the interest in the Illinois Central Equipment Trust, Series "X", 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 Illinois Central Railroad Company that delivery of this certificate (unless it be registered in the name of the holder) or any such dividend warrant by any 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 Illinois Central Railroad 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 Illinois Central Railroad

Company, in said Agreement and 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.

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 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 the first day of August, 1947.

THE PENNSYLVANIA COMPANY FOR BANKING AND TRUSTS,

Trustee,

By_____,

Vice-President.

Attest:

_____

Assistant Secretary.

(Form of Dividend Warrant)

$_____ No._____

Due to the bearer hereof on the first day of _____ on surrender hereof at the agency of the Trustee in the Borough of Manhattan in the City of New York in the State of New York, _____ Dollars ($_____), 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, being the semi-annual dividend then due on Certificate No. _____ of the Illinois Central Equipment Trust, Series "X", but only out of rentals received by the Trustee under the Lease referred to in said certificate.

THE PENNSYLVANIA COMPANY FOR BANKING AND TRUSTS,

Trustee,

By_____

Treasurer.

(Form of Guaranty)

Illinois Central Railroad 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 of all dividends thereon at the rate of ____ per cent (____%) per annum on the semi-annual dates and for the period mentioned in said certificate, all 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.

ILLINOIS CENTRAL RAILROAD COMPANY,

By_____

Vice-President.

SECTION 3. 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 shall be thereunto affixed and attested by its Secretary or one of its Assistant Secretaries. In case any of the officers of the Trustee who shall have signed and sealed any of the Trust Certificates shall cease to be such officers of the Trustee before the Trust Certificates so signed and sealed shall have been issued and delivered by the Trustee, such Trust Certificates shall be adopted by the Trustee and be issued and delivered as though the persons who signed and sealed such certificates had not ceased to be such officers of the Trustee. The dividend warrants to be thereunto attached shall be authenticated by the facsimile signature of the present or any future Treasurer of the Trustee; the Trustee shall adopt and use for that purpose any such facsimile signature notwithstanding the fact that such Treasurer shall have ceased to be such Treasurer at the

time when any such Trust Certificate shall be issued and delivered as herein provided. Before executing or delivering any Trust Certificate all matured dividend warrants thereto appertaining shall be cut off and cancelled and delivered by the Trustee to the Company.

SECTION 4. Temporary printed Trust Certificates, with or without dividend warrants, in such form and denominations as the Trustee may determine, may be issued by the Trustee, having endorsed thereon said guaranty of the Company, which shall be exchangeable upon surrender for definitive Trust Certificates, having endorsed thereon said guaranty of the Company, when the same shall have been prepared. Each of such temporary Trust Certificates shall designate the date or dates of maturity of the definitive Trust Certificate or Certificates for which it is exchangeable, 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.

SECTION 5. Any of the definitive Trust Certificates may be registered in the name of the holder at the agency of the Trustee in the Borough of Manhattan in the City 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 agency by the registered owner 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 Trust Certificates may again and from time to time be registered or transferred to bearer as before.

Such registration, however, shall not affect the dividend

warrants, but every such dividend warrant shall continue to be transferable by delivery merely and shall remain payable to bearer.

Anything to the contrary herein notwithstanding, the parties hereto may deem and treat the bearer of any unregistered Trust Certificate 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 thereof, 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 owner of any registered Trust Certificate as the absolute owner of such Trust Certificate for all purposes except payment of dividends, and shall not be affected by any notice to the contrary.

For any registration, transfer or discharge from registration, 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.

SECTION 6. In case any Trust Certificate, or the dividend warrants thereto attached, shall become mutilated or defaced or be lost or destroyed, then on the terms herein set forth, and not otherwise, the Trustee shall execute and deliver a new Trust Certificate (and the Company at the request of the Trustee shall execute its guaranty thereon), with all unmatured dividend warrants appertaining thereto, of like maturity, tenor and date, and bearing the same serial number as the one mutilated, defaced, lost or destroyed, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Trust Certificate and warrants, or in lieu of and substitution for the same if lost or destroyed, and make payment of any matured

dividend warrants appertaining to the same. The applicant for a substituted Trust Certificate shall furnish to the Trustee and to the Company evidence to their satisfaction of the loss or destruction of such Trust Certificate or warrants alleged to have been lost or destroyed, and of the ownership and authenticity of such mutilated, defaced, lost or destroyed Trust Certificate and warrants, and also such security or 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, defaced, lost 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.

ARTICLE III.

SECTION 1. 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 expenses of the Trustee, and of all taxes, assessments and governmental charges mentioned in Article First of said Lease for which the Trustee may be liable, other than taxes, assessments and governmental charges which the Trustee or the Company may be required to pay or to retain from the principal of the Trust Certificates or the dividends payable in respect thereof under any present or future law of the United States of America or of any state, county, municipality or other taxing authority therein.

SECTION 2. The Company covenants and agrees and guarantees that the holder or registered owner of each of

the Trust Certificates shall receive the sum of One Thousand Dollars, or in case of temporary Trust Certificates, the principal amount thereof, in such coin or currency of the United States of America as at the time of payment is legal tender for 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 respective dividend warrant rates borne by the Trust Certificates, from August 1, 1947, to the date of maturity of such Trust Certificate, and at the times and place and otherwise as expressed in the Trust Certificates and in the dividends warrants thereto attached; 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 in Section 2 of Article II hereof provided. Said guaranty so endorsed shall be signed in the name and on behalf of the Company by its President or one of its Vice-Presidents. In case any officers of the Company who shall have signed such guaranty shall cease to be such officers of the Company before the Trust Certificates shall have been actually issued and delivered by the Trustee, such guaranty shall nevertheless be as effective and binding upon the Company as though the persons who signed such guaranty had not ceased to be such officers of the Company.

SECTION 3. The Company covenants and agrees that it will pay or cause to be paid or discharged, or make adequate provision for the satisfaction or discharge of, any claim which, if unpaid, might become a lien or charge upon or against any of the Trust Equipment, except upon the leasehold interest of the Company therein; but this provi-

sion shall not require the payment of any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings unless thereby in the opinion of the Trustee, the rights of the Trust Certificate holders may be materially endangered.

SECTION 4. The Company covenants and agrees to pay the expenses incident to the preparation and execution of the Trust Certificates and dividend warrants, including any temporary Trust Certificates to be issued hereunder, and the expenses connected with the preparation, execution, recording, registration and filing hereof or of said Lease and of any instruments executed under the provisions hereof or of said Lease in respect to the Trust Equipment or said Lease, or any equipment or parts used to replace any of the same. The Company with all convenient speed will cause this Agreement and said Lease and all supplemental leases and agreements which may be executed under the terms of this Agreement or of said Lease, to be duly filed and recorded in all states wherein are situated railroad lines owned or operated by the Company or over which the Company has trackage rights, and otherwise as may be required by law, so that this Agreement and said Lease and all said other instruments may at all times be duly filed and recorded.

SECTION 5. The Company covenants and agrees from time to time to do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and said Lease and the intent thereof.

ARTICLE IV.

SECTION 1. In order to prevent any accumulation of Trust Certificates 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 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 said Trust Certificates 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 Certificates 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 Certificates or dividend warrants 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 Certificates and dividend warrants shall not be entitled to the benefit of said Lease or of this Agreement, except subject to the prior payment in full of the principal of all other Trust Certificates and dividend warrants whether the same be then matured or unmatured.

SECTION 2. In case one or more of the events of default described in Article Seventh of said Lease shall happen, the Trustee in its discretion may, and at the request of the holders of a majority in amount of the Trust Certificates then outstanding shall, declare the principal of all of said

Trust Certificates to be due and payable, and thereupon the same shall become and be immediately due and payable. In any such case (whether or not the principal of the Trust Certificates shall have been declared due and payable) 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 or private sale, for cash or upon credit, as the Trustee may deem most beneficial to the interests of the holders of said Trust Certificates. In case one or more of said events of default shall happen (whether the principal of the Trust Certificates shall have been declared due and payable or not), then upon the written request of the holders of 25% of the principal amount of the Trust Certificates at the time outstanding, it shall be the duty of the Trustee, upon being indemnified as hereinafter provided, to take all steps for the protection and enforcement of its rights and the rights of the holders of the Trust Certificates, and to exercise one or more of the powers of entry, sale and lease in said 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 interest of the holders of the Trust Certificates; but, anything in this Agreement to the contrary notwithstanding, upon proper indemnity to the Trustee, the holders of a majority in amount of the Trust Certificates then outstanding from time to time, shall have the right to direct and to control the proceedings for any enforcement of said Lease and this Agreement and the sale or lease of the Trust Equipment. The proceeds of such lease or sale shall be applied by the Trustee to the payment, after deducting the expenses of the trust and all taxes, assessments and governmental charges which the Trustee may by law be required to pay in respect of the

trust or the Trust Certificates aforesaid or the dividends thereon:

(1) of the dividends then due with interest on any overdue dividends at the respective dividend warrant rates borne by the Trust Certificates; and

(2) of the principal of all said outstanding Trust Certificates with interest thereon at the respective dividend warrant rates borne by the Trust Certificates from the last preceding dividend date, whether said Certificates or any of them shall then have matured by their terms or not;

all of said payments to be in full, if said proceeds shall be sufficient, and if not, then *pro rata*, without preference of principal over dividends, or of dividends over principal or otherwise (subject, however, to Section 1 of this Article IV), and without regard to the dates of maturity thereof.

The foregoing provisions, however, are subject to the condition that if at any time after the principal of the Trust Certificates shall have been declared and have become due and payable, as hereinbefore provided, but before August 1, 1957, all arrears of rental (with interest upon any overdue installment at the respective dividend warrant rates borne by the Trust Certificates), the expenses of the Trustee and all other sums which shall have become due and payable by the company hereunder or under said Lease (other than the principal of Trust Certificates and rental installments which shall not at the time have matured according to their terms), shall be paid by the Company before any taking possession, withdrawal, sale or lease by the Trustee of any of the Trust Equipment, and every other default in the observance or performance of any covenant or condition of this Agreement or said Lease shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then

and in every such case the Trustee, if so requested by the holders of a majority in principal amount of the Trust Certificates then outstanding and which shall not have then matured according to their terms, shall, by written notice to the Company, waive the default by reason of which the principal of the Trust Certificates shall have been declared and become due and the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

Neither such retaking possession nor any withdrawal or lease or sale of the Trust Equipment by the Trustee, nor any action or failure or omission to act, against the Company or in respect to the Trust Equipment, on the part of the Trustee or on the part of any holder of any Trust Certificate or dividend warrant, nor any delay or indulgence granted to the Company by the Trustee or any such holder, shall affect the obligations of the Company under this Agreement or under said Lease or under its guaranty.

ARTICLE V.

SECTION 1. The Trustee hereby covenants and agrees to perform, and, so far as possible, to enforce the performance of, all and singular the terms, conditions and covenants of said Lease, including the marking or other specific identification of the Trust Equipment.

SECTION 2. The Trustee covenants and agrees to apply and distribute the rentals received by it under subdivision (c), other than rentals issued to restore sums to Deposited Cash, and under subdivisions (d), (e), (f) and (g) of Article First of said Lease, when and as the same shall be received, for the following purposes, to wit:

(a) to the payment of the necessary and reasonable expenses of the trust connected with the Trust Equipment and said Lease thereof;

(b) to the payment of any and all taxes, assessments and governmental charges upon the income or property of the trust, or the agreements evidencing the same, which the Trustee may be required to pay but excluding any and all taxes, assessments or governmental charges which the Trustee may be required to pay or to retain from the principal of the Trust Certificates or from the dividends payable thereon under any present or future law of the United States of America or of any state, county, municipality or other taxing authority therein;

(c) to the payment of the dividend warrants attached to the Trust Certificates when and as the same shall become payable;

(d) to the payment of the principal of the Trust Certificates when and as the same shall become payable according to the terms thereof or hereof; and

(e) to the payment of interest at the respective dividend warrant rate borne by the Trust Certificates on any unpaid dividend warrants, dividends or principal in the payment of which default shall have been made.

SECTION 3. The Trustee shall cause to be kept at an agency in the Borough of Manhattan in the City of New York, books for the registration and transfer of the Trust Certificates and upon presentation for such purpose the Trustee will register or cause to be registered as hereinbefore provided, and under such reasonable regulations as may be prescribed, any of the Trust Certificates. The Trustee, at all times until the payment of the principal of all the Trust Certificates, shall keep an agency in the Borough of Manhattan in the City of New York, where the Trust Certificates and dividend warrants may be presented for payment.

SECTION 4. The Trustee assumes no liability for anything other than its own wilful misconduct or gross neglect. It shall be required to undertake no act or duty in the way of taking care of or taking possession of the Trust Equip-

ment until fully secured against all liability. No duty of insurance or of repairs or of protection of any of the trust property is incumbent upon it, nor shall it be responsible for the filing or recording of this Agreement or of said Lease; and the Trustee may issue and deliver Trust Certificates in advance of such filing or recording.

SECTION 5. The Trustee shall be under no obligation to take any action for the execution or enforcement of any of the trusts hereby created unless requested thereunto in writing by the holders of not less than 25% of the principal amount of the then outstanding Trust Certificates and upon being satisfactorily indemnified against expense and liability with respect thereto, and also furnished with proof satisfactory to it as to the ownership of the Trust Certificates and warrants in respect of which any notice or request may be made; but neither any such request nor this provision therefor shall affect any discretion herein elsewhere specifically given to the Trustee to determine what action it shall take in respect of any such default, or to take action without request.

SECTION 6. No holder of any Trust Certificate or dividend warrant issued hereunder shall have any right to institute any suit, action or proceeding for the execution and enforcement of the trust hereby created unless, after the aforesaid request in writing by the holders of not less than 25% of the principal amount of the then outstanding Trust Certificates shall have been made upon the Trustee, indemnity satisfactory to it provided, and a reasonable time elapsed for action by the Trustee upon such request, it shall decline to institute any proceedings pursuant thereto.

Neither the provisions of this section nor the provisions of Section 5 of this Article V shall affect or limit in any way the obligations of the Company or the rights of holders of Trust Certificates under said guaranty.

SECTION 7. The Trustee may, for all purposes, conclusively assume that the Company is not in default under the terms hereof until notified in writing to the contrary by the holders of at least 10% of the principal amount of the Trust Certificates then outstanding, which notice shall distinctly specify the default desired to be brought to the attention of the Trustee.

SECTION 8. The Trustee shall not incur any liability to anybody in acting upon any notice, consent, order, certificate, warrant or other paper or instrument believed by it to be genuine or authentic, and to be signed by the proper party or parties.

SECTION 9. Any moneys at any time held by the Trustee, hereunder or under said Lease, shall, until paid out by the Trustee as herein or therein provided, be deposited to the credit of the Trustee in accordance with Section 2 of Article I hereof, or be held by it in trust for the benefit of the holders of the Trust Certificates. The Trustee will allow interest upon any such moneys held by it in trust at the rate generally prevailing among Philadelphia trust companies or allowed by it upon deposits of a similar character, or allowed by any designated depositary for said moneys.

At any time, and from time to time, if at the time there shall be no default under the terms of said Lease or of this Agreement, or of any supplemental lease or supplemental agreement, the Trustee, on request of the Company, shall apply Deposited Cash held by it applicable to the cost of any or all units of Trust Equipment which shall not have been transferred and delivered to the Trustee, to the investment in such bonds, notes or other direct obligations of the United States (herein and in said Lease called Government Securities), and at such prices, including any premium and accrued interest, as shall be set forth in a

request by the Company, such Government Securities to be held by the Trustee in trust for the benefit of the holders of the Trust Certificates.

The Trustee shall, on request of the Company, or the Trustee may, in the event funds are required for payment to or upon the order of the Vendors against delivery of equipment, sell such Government Securities, or any portion thereof, and apply the proceeds (including accrued interest paid from Deposited Cash at the time of purchase) as Deposited Cash to the cost of units of Trust Equipment in compliance with the terms of this Agreement.

The Trustee shall restore to Deposited Cash, out of rent received by it for that purpose, under the provisions of subdivision (c) of Article First of said Lease, any expenses incurred in connection with any purchase or sale of such Government Securities, and also an amount equal to any loss of principal incident to the sale of any such investment in Government Securities for a sum less than the amount paid therefor out of Deposited Cash, including any premium and accrued interest. The Company, if not in default under the terms of said Lease or of this Agreement, or of any supplemental lease or supplemental agreement, shall be entitled to receive any profit which may be realized from any sale by the Trustee of such Government Securities or any portion thereof.

Any interest allowed or received by the Trustee upon moneys received by it under the provisions of this Agreement and any interest received upon investments made by the Trustee on request of the Company as aforesaid (in excess of accrued interest paid from Deposited Cash at the time of purchase) shall, so long as there shall be no default on the part of the Company hereunder or under said Lease, be paid to the Company by the Trustee.

Any request made pursuant to the provisions of this Section shall be in writing and signed by the President or any Vice-President and the Treasurer or any Assistant Treasurer of the Company.

SECTION 10. The Trustee shall, at least once in each year, render to the Company a statement of its said trust and of the accounts relating thereto, and covering such matters as the Company may properly require, and the Vendors and the Company or either of them, may from time to time examine the books and accounts of the Trustee relating to said Trust Certificates and Lease, to this Agreement and to the acts of the Trustee hereunder.

SECTION 11. The Trustee may resign and be discharged from the trusts created by this Agreement by giving to the Company and to the holders of the Trust Certificates then outstanding notice in writing of such resignation, specifying a date when such resignation shall take effect. Such notice may be given to the holders of the Trust Certificates by publication of the notice at least once in each of three successive calendar weeks prior to the date specified in such notice in a daily newspaper published in the Borough of Manhattan, in the City of New York, and in a daily newspaper published in the City of Philadelphia, Pennsylvania. Such resignation shall take effect on the date specified in such notice (which date shall not be less than thirty days after the giving or first publication of such notice), unless previously a successor trustee shall be appointed as hereinafter provided, in which event such resignation shall take effect immediately upon the appointment of such successor trustee.

Any trustee hereunder may be removed at any time by an instrument in writing filed with the Trustee and executed by the holders of a majority in principal amount of the Trust Certificates at the time outstanding.

SECTION 12. In case at any time the Trustee shall resign or shall be removed or otherwise shall become incapable of acting, a successor may be appointed by the holders of a majority in principal amount of the Trust Certificates at the time outstanding, by an instrument or concurrent instruments signed by such Certificate holders or their attorneys in fact duly authorized; but until a new trustee shall be appointed by said Certificate holders as herein authorized, the Company, by an instrument executed under its corporate seal, may appoint a trustee to fill such vacancy. Every such successor trustee, whether appointed by the Certificate holders or by the Company, shall always be a trust company or bank having power so to act and organized under the laws of the United States of America, the Commonwealth of Pennsylvania or the State of New York and having an office either in the City of Philadelphia or in the Borough of Manhattan, City of New York, and having a capital and surplus aggregating at least two million dollars. After any such appointment by the Company, it shall cause notice of such appointment to be published once a week in each of four successive weeks in a daily newspaper published in the Borough of Manhattan in the City of New York, and in a daily newspaper published in the City of Philadelphia, Pennsylvania; but 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 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 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 be a corporation organized under the laws of the United States of America, the Commonwealth of Pennsylvania or the State of New York shall do business in the City of Philadelphia, Pennsylvania, or in the Borough of Manhattan in the City of New York, and have a capital and surplus aggregating at least two million dollars, shall be the 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 VI.

No recourse under any obligation, covenant or agreement of this Agreement, or of 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 assess-

ment 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, and that any and all 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.

ARTICLE VII.

Any request or other instrument required by this Agreement to be signed or executed by holders of Trust Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such Certificate 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 Commonwealth of

Pennsylvania or the State of New York, acknowledgments of deeds to be recorded in either of said States, 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;

(b) the amount of Trust Certificates held by any person executing any such request or other instrument as a Certificate holder, and 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 unless and until it receives proof satisfactory to it to the contrary.

ARTICLE VIII.

At the termination of said Lease to the Company, any moneys remaining in the hands of the Trustee, after paying the principal of and dividends upon the Trust Certificates, and the expenses of the Trustee, including its reasonable compensation, shall be paid to the Company.

ARTICLE IX.

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 the holders of the Trust Certificates and apportionment dividend warrants, any right, remedy or claim, under or by reason of this Agreement, or of any term, covenant or condition thereof, and all of the terms, cove-

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nants, conditions, promises and agreements in this Agreement contained shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Trust Certificates and dividend warrants.

ARTICLE X.

The term "Trustee" as used herein and in said Lease shall be held and construed to mean The Pennsylvania Company for Banking and Trusts, its successors and assigns; the word "Company" herein, to mean and include the party of the third part, its successors and assigns; and the words "Certificate holder" and "holder" shall include the plural as well as the singular number. The term "Trust Equipment" wherever used herein or in said Lease, unless otherwise indicated by the context, is intended to include all railroad equipment at any time covered by said Lease or any supplemental lease or this Agreement or required or intended so to be.

In case of the death of either of the Vendors the other Vendor shall have and discharge all the powers of the Vendors. In case of the death or inability to act of both of the Vendors, the Trustee shall receive and distribute or pay for the account of the original Vendors, to the parties entitled to receive the same from the original Vendors, all Trust Certificates issuable or Deposited Cash or other moneys payable to the original Vendors by the Trustee hereunder. Any action taken by either of the Vendors shall have the same force and effect as if taken by both of them.

Whenever, under the provisions hereof, it is necessary or proper for any notice or demand to be made to or upon the Company, or if at any time it is desired to give any such notice or make any such demand, such notice or demand may be given or made to the Company by depositing a written statement thereof, securely enclosed in a postpaid wrapper, in the United States mail, directed to the

Company at Chicago, Illinois, and an affidavit by any person representing or acting on behalf of the Trustee as to such mailing shall be conclusive evidence of the giving of such notice and the making of such demand.

This Agreement shall be simultaneously executed in twenty-five 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.

The Pennsylvania Company for Banking and Trusts doth hereby constitute and appoint Wm. M. David to be its attorney for it, and in its name and as and for its corporate act and deed to acknowledge this Agreement, before any person having authority by the laws of the Commonwealth of Pennsylvania or elsewhere to take such acknowledgment, to the intent that the same may be duly recorded.

Illinois Central Railroad Company doth hereby constitute and appoint R. E. Connolly to be its attorney for it, and in its name and as and for its corporate act and deed to acknowledge this Agreement, before any person having authority by the laws of the Commonwealth of Pennsylvania or elsewhere to take such acknowledgment, to the intent that the same may be duly recorded.

IN WITNESS WHEREOF the parties of the first part have hereunto set their hands and seals, and the parties of the second and third parts have caused their names to be signed hereto by their respective officers thereunto duly authorized and their respective corporate seals to be hereto affixed, duly attested, as of the day and year first above written.

Geo Smith [L. S.]

H J Wylie [L. S.]

Witnesses:
E B Stubbins
E L Hunter

THE PENNSYLVANIA COMPANY FOR BANKING AND TRUSTS,

By Wm M. David
Vice-President.

Attest:
Robert H Wylie
Assistant Secretary.

Signed, sealed and delivered by The Pennsylvania Company for Banking and Trusts in the presence of:
E B Stubbins
E L Hunter

ILLINOIS CENTRAL RAILROAD COMPANY,

By R E Connolly
Vice-President.

Attest:
W B Hutton
Assistant Secretary.

Signed, sealed and delivered by Illinois Central Railroad Company in the presence of:
E B Stubbins
E L Hunter

UNITED STATES OF AMERICA,
STATE OF NEW YORK,
COUNTY OF NEW YORK. } ss.

I, JOHN M. BOYCE, a notary public in and for the County of New York, State of New York, do hereby certify and be it remembered that the above-annexed and foregoing instrument of writing between George Smith and H. J. Wylie, The Pennsylvania Company for Banking and Trusts, and Illinois Central Railroad Company, was produced to me in my county by the parties on this 21st day of August, 1947; and that this day at the same time before me the undersigned a notary public duly commissioned and qualified within and for the county aforesaid personally and in person came and appeared the above and within-named George Smith and H. J. Wylie, the Vendors, with each of whom I am personally acquainted, and who are to me known and personally known to me to be the same identical individuals described and named in, and whose names are signed, subscribed and affixed to, and who executed the above-annexed and foregoing instrument as the parties of the first part, and they severally signed said instrument before me and in the presence of the two subscribing legal witnesses, and severally acknowledged in the presence of said witnesses that, being informed of the contents of said instrument, they executed, signed, sealed and delivered said instrument, as and to be their free and voluntary acts and deeds for the uses and purposes therein contained, mentioned and set forth, and severally desired the same to be recorded as such.

And I, the said notary public in and for the County of New York, State of New York, do hereby further certify and be it remembered that this day at the same time be-

fore me, the undersigned, a notary public duly commissioned and qualified within and for the county aforesaid, personally and in person came and appeared the above and within-named Wm. M. David, a Vice-President of the above-named The Pennsylvania Company for Banking and Trusts, a corporation duly organized, incorporated and existing under and by the laws of the Commonwealth of Pennsylvania, and Robert H. Tice, an Assistant Secretary of said The Pennsylvania Company for Banking and Trusts, one of the corporations described in and that executed the within instrument, with each of whom I am personally acquainted, and who are to me known and personally known to me to be the same identical persons whose names are affixed, signed and subscribed to said instrument and whose names are signed to the foregoing instrument as such a Vice-President and an Assistant Secretary, respectively, as having executed the same, and who are personally known to me to be such a Vice-President and an Assistant Secretary, officers of the corporation described in the within instrument, having authority to execute such instrument, 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 The Pennsylvania Company for Banking and Trusts, a corporation party thereunto, to be the act and deed of said corporation by them as a Vice-President and an Assistant Secretary, respectively, and the said Robert H. Tice, as an Assistant Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, they severally upon oath acknowledged themselves before me and in the presence of said witnesses

to be a Vice-President and an Assistant Secretary, respectively, of said corporation, the within-named party of the second part, and further severally acknowledged to me the execution of the said foregoing instrument on behalf of said corporation, and they severally acknowledged the execution of the same to be the act and deed of said corporation, that such corporation executed the same and that being informed of the contents of the instrument they as such a Vice-President and an Assistant Secretary, respectively, with full authority as such officers and being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned and 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 acts and deeds as such a Vice-President and an Assistant Secretary, respectively, for the consideration, uses and purposes therein set forth.

And at the same time the said Wm. M. David, being by me duly sworn, did depose and say that he resides in the City of Philadelphia, in the County of Philadelphia, Commonwealth of Pennsylvania; that he is a Vice-President of said The Pennsylvania Company for Banking and Trusts, one of the corporations described in and which executed the above instrument; that he knows 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 order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order and he acknowledged said instrument to be the voluntary act and deed of said corporation.

And I do hereby 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, and have caused said appearers and witnesses to sign this acknowledgment.

John M. Boyce
Notary Public.

I am not a Stockholder, Director or Officer of the within mentioned Corporation.

John M. Boyce
Notary Public.

Appearers:

Wm. M. David

Robert H. Tice

Witnesses

E. B. Gibbons

E. L. Hunter

JOHN M. BOYCE
Notary Public, State of New York
Resident in New York County
N.Y. Co. Cik's No. 122, Reg. No. 2[illegible]-B-[illegible]
Kings Co. Cik's No. 52, Reg. No. 2[illegible]-B-[illegible]
Queens Co. Cik's No. 1[illegible], Reg. No. 2[illegible]-B-[illegible]
Bronx Co. Cik's No. 2[illegible], Reg. No. 2[illegible]-B-[illegible]
Richmond Co. Cik's No. 1-B
Commission Expires March 30, 1949

UNITED STATES OF AMERICA,
STATE OF NEW YORK,
COUNTY OF NEW YORK. } ss.

I, JOHN M. BOYCE, a notary public in and for the County of New York, State of New York, do hereby certify and be it remembered that the above-annexed and foregoing instrument, of writing between George Smith and H. J. Wylie, The Pennsylvania Company for Banking and Trusts, and Illinois Central Railroad Company, was produced to me in my County by the parties on this 21st day of August, 1947, and that this day before me, the undersigned, a notary public duly commissioned and qualified within and for the county aforesaid personally and in person came and appeared the above and within-named R. E. Connolly, a Vice-President of the above-named Illinois Central Railroad Company, a corporation duly organized, incorporated and existing under and by the laws of the State of Illinois, and A. B. Huttig, an Assistant Secretary of said Illinois Central Railroad Company, one of the corporations described in and that executed the within instrument, with each of whom I am personally acquainted, and who are to me known and personally known to me to be the same identical persons whose names are affixed, signed and subscribed to said instrument and whose names are signed to the foregoing instrument as such Vice-President and Assistant Secretary, respectively, as having executed the same, and who are personally known to me to be such Vice-President and Assistant Secretary, officers of the corporation described in the within instrument having authority to execute such instrument, 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 a Vice-President and an Assistant Secretary, respectively, of said Illinois Central Railroad Company, a corporation party thereunto, to be the act and deed of said corporation by them as a Vice-President and an Assistant Secretary, respectively, and the said A. B. Huttig, as an Assistant Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument, and furthermore they severally upon oath acknowledged themselves before me and in the presence of said witnesses to be a Vice-President and an Assistant Secretary, respectively, of said corporation, the within-named party of the third part, and further severally acknowledged to me the execution of the said foregoing instrument on behalf of said corporation, and they severally acknowledged the execution of the same to be the act and deed of said corporation, that such corporation executed the same and that being informed of the contents of the instrument they, as such a Vice-President and an Assistant Secretary, respectively, with full authority as such officers and 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 acts and deeds as such a Vice-President and an Assistant Secretary, respectively, for the consideration, uses and purposes therein set forth.

And at the same time the said R. E. Connolly, being by me duly sworn, did depose and say that he resides in Flossmoor, in the County of Cook, State of Illinois, that he is a Vice-President of said Illinois Central Railroad Company, one of the corporations described in and which

executed the above instrument; that he knows 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 order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order and he acknowledged said instrument to be the voluntary act and deed of said corporation.

And I do hereby 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, and have caused said appearers and witnesses to sign this acknowledgment.

John M Boyce
Notary Public.

I am not a Stockholder, Director or Officer of the within mentioned Corporation.

John M Boyce
Notary Public.

JOHN M. BOYCE
Notary Public, State of New York
Residing in New York County
N.Y. Co. Clk's No. 123. Reg. No. 956-B-9
Kings Co. Clk's No. 39. Reg. No. 965-B-3
Queens Co. Clk's No. 2003. Reg. No. 2[illegible]
Bronx Co. Clk's No. 52. Reg. No. 227-B-9
Richmond Co. Clk's No. 2-3
Commission Expires March 30, 1949

Appearers:

R E Connolly
A B Huttig

Witnesses:

A B Guseman
E F Hunter

UNITED STATES OF AMERICA,
STATE OF NEW YORK,
COUNTY OF NEW YORK. } ss.

I do hereby certify that the United States Internal Revenue Stamps required by law have been affixed to one of the counterparts of the within Agreement and cancelled.

John M Boyce
Notary Public.

I am not a Stockholder, Director or Officer of the within mentioned Corporations.

John M Boyce
Notary Public.

JOHN M. BOYCE
Notary Public, State of New York
Residing in New York County
N.Y. Co. Clk's No. 123. Reg. No. 956-B-9
Kings Co. Clk's No. 39. Reg. No. 965-B-3
Queens Co. Clk's No. 2003. Reg. No. 227-B-9
Bronx Co. Clk's No. 52. Reg. No. 227-B-9
Richmond Co. Clk's No. 2-3
Commission Expires March 30, 1949

Form 1

State of New York
County of New York, } ss.: No. 50218

I, ARCHIBALD R. WATSON, County Clerk and Clerk of the Supreme Court, New York County, a Court of Record having by law a seal, DO HEREBY CERTIFY that JOHN M BOYCE whose name is subscribed to the annexed affidavit, deposition, certificate of acknowledgment or proof, was at the time of taking the same a NOTARY PUBLIC in and for the State of New York, duly commissioned and sworn and qualified to act as such throughout the State of New York; that pursuant to law a commission, or a certificate of his appointment and qualifications, and his autograph signature, have been filed in my office; that as such Notary Public he was duly authorized by the laws of the State of New York to administer oaths and affirmations, to receive and certify the acknowledgment or proof of deeds, mortgages, powers of attorney and other written instruments for lands, tenements and hereditaments to be read in evidence or recorded in this State, to protest notes and to take and certify affidavits and depositions; and that I am well acquainted with the handwriting of such Notary Public, or have compared the signature on the annexed instrument with his autograph signature deposited in my office, and believe that the signature is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 27 day of Aug 1947

Archibald R Watson
County Clerk and Clerk of the Supreme Court, New York County

FEE PAID 25¢

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 27TH day of AUGUST A. D. 1947 at 10:00 o'clock A.M. and recorded in Vol. 40 of RAILROAD MORTGAGES on pages 77-110 inc.
John C. Gudemann
Assistant Secretary of State

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Return to
OFFICE OF SECRETARY
ILLINOIS CENTRAL RAILROAD CO.
CHICAGO, ILLINOIS

Illinois Central Equipment Trust

Series Y

Lease of Railroad Equipment

DATED AUGUST 1, 1947

THE PENNSYLVANIA COMPANY FOR BANKING AND TRUSTS,
Trustee, Lessor

TO

ILLINOIS CENTRAL RAILROAD COMPANY, Lessee

Agreement

DATED AUGUST 1, 1947

GEORGE SMITH AND H. J. WYLIE, Vendors

WITH

THE PENNSYLVANIA COMPANY FOR BANKING AND TRUSTS,
Trustee

AND

ILLINOIS CENTRAL RAILROAD COMPANY

THE DONNELLEY-MARION PRINTING COMPANY, 350 WEST JACKSON, CHICAGO

LEASE OF RAILROAD EQUIPMENT, dated the first day of August, 1947, between **THE PENNSYLVANIA COMPANY FOR BANKING AND TRUSTS**, a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, Trustee as hereinafter mentioned (hereinafter called the Trustee), Lessor, and party of the first part, and **ILLINOIS CENTRAL RAILROAD COMPANY**, a corporation duly organized and existing under the laws of the State of Illinois (hereinafter called the Company), Lessee, and party of the second part:

WHEREAS, by a certain Agreement, bearing date the first day of August, 1947, between George Smith and H. J. Wylie, Vendors, said The Pennsylvania Company for Banking and Trusts, as Trustees, and Illinois Central Railroad Company, a counterpart original whereof is hereto annexed and made a part hereof, there was constituted "Illinois Central Equipment Trust, Series Y", under which 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 said Agreement, the railroad equipment hereinafter described 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:

That The Pennsylvania Company for Banking and Trusts, Trustee as aforesaid (acting in pursuance of said Agreement), party of the first part, for and in consideration as well of the sum of one dollar to it paid by Illinois Central Railroad 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 and covenants hereinafter mentioned to be paid, kept and performed by the Company, has let and leased, and does hereby let and lease, to the Company all the railroad equipment of the Illinois Central Equipment Trust, Series Y (hereinafter collectively called the Trust Equipment), to wit:

315 50-Ton 40′ 6″ Box Cars numbered 29500-29999.
500 40-Ton 40′ 6″ Auto Box numbered 35500-35999.
500 50-Ton 33′ 0″ Hopper Cars numbered 74500-74999.
1000 50-Ton 33′ 0″ Hopper Cars numbered 87000-87999.
1500 50-Ton 40′ 6″ Box Cars numbered 30500-31999.

Together with such additional railroad equipment as shall be acquired for said trust and subjected to this Lease as hereinafter provided.

The estimated cost of the railroad equipment above specifically described, when completed, has been certified to the Trustee to be not less than $14,214,609.

In case the actual cost of said equipment specifically described shall not amount to at least said sum, then in addition to said equipment above specifically described, there may be acquired by the Vendors and subjected to this Lease (subject, however, to the provisions of Section 5 of Article I of said Agreement) other new standard gauge railroad rolling stock (other than work equipment), of such cost that the aggregate cost of all the Trust Equipment will be at least said sum; 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 said Agreement, and such additional equipment shall be part of the Trust Equipment, subject to all the terms and conditions hereof and of said Agreement in all respects as though it had been part of the original Trust Equipment herein described.

As and when the Trust Equipment shall from time to time be transferred and delivered to the Trustee under said Agreement and marked in accordance with the provisions of Article Fourth hereof, the same shall be delivered to the Company, and shall upon such delivery to the Company *ipso facto*, and without further instrument 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:

First. The Company hereby accepts (subject to the conditions mentioned in said Agreement) 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 the Company covenants and agrees to pay to the Trustee or its successors or assigns (or in the case of taxes, to the proper taxing authority), in such coin or currency of the United States of America as, at the time of payment, is legal tender for the payment of public and private debts in the United States of America, rent hereunder which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable:

(a) From time to time, as and when Trust Certificates are issued and sold, such amounts of cash, if any, as may be necessary, when added to the net proceeds of the sale of the Trust Certificates (exclusive of accrued dividends), to make the total sum deposited with the Trustee equal to the aggregate principal amount of the Trust Certificates so issued and sold.

without dividend warrants, the dividends accrued and payable thereunder.

(f) The principal of all the Trust Certificates which shall have been issued and are then outstanding, when and as the same shall become payable, whether by declaration or upon the respective dates of maturity thereof, to wit:

February 1, 1948	$568,000
August 1, 1948	568,000
February 1, 1949	568,000
August 1, 1949	568,000
February 1, 1950	568,000
August 1, 1950	568,000
February 1, 1951	568,000
August 1, 1951	568,000
February 1, 1952	568,000
August 1, 1952	568,000
February 1, 1953	568,000
August 1, 1953	568,000
February 1, 1954	568,000
August 1, 1954	568,000
February 1, 1955	568,000
August 1, 1955	568,000
February 1, 1956	568,000
August 1, 1956	568,000
February 1, 1957	568,000
August 1, 1957	568,000

(g) If default shall be made in the full payment of any of such dividend warrants, dividends or principal when and as the same shall become due and payable as aforesaid, interest on such unpaid dividend warrants, dividends or principal at the dividend warrant rate.

(h) If any of the Trust Certificates shall be issued on or after February 1, 1948, an amount of cash, at the time of each of such issues, equal (with any payments theretofore made pursuant to this subdivision (h)) to the principal amount of Trust Certificates of earlier or contemporaneous maturities authorized but not theretofore issued hereunder.

under, sell such equipment and execute and deliver a bill of sale assigning and transferring to the purchaser the absolute title thereto; provided, however, that none of the Trust Equipment shall be so assigned or transferred, unless simultaneously 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 said purchase price is less than the fair value of the equipment sold at the time of sale. For this purpose the fair value of the sold equipment shall be considered to be the original cost thereof less five per cent (5%) of said original cost for each full year elapsed since the delivery to the Company hereunder of the sold equipment. The sums so paid to the Trustee shall be applied by it to the purchase of other new standard gauge railroad rolling stock (other than work equipment) as specified by the Company, free from liens, and upon the delivery of such other equipment to the Trustee accompanied by a bill or bills of sale, an opinion of counsel and a certificate as to delivery and cost in like manner as is provided in Section 4 of Article I of said Agreement. Until so applied by the Trustee, said sums shall be held by the Trustee in trust for the benefit of the holders of the Trust Certificates and dividend warrants. Any equipment so acquired and substituted shall be marked in accordance with the provisions of Article Fourth hereof and immediately upon being so marked shall be part of the Trust Equipment, subject to all of the terms and conditions hereof and of said 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 a supplemental lease thereof, describing the same, upon and subject to all the terms and conditions hereof. The term "Trust Equipment," wherever used herein, unless otherwise indicated by the context, is intended to include any equipment so

(b) From time to time, as and when any of the Trust Equipment shall be delivered to the Company, amounts in cash equal to the difference between the cost of the Trust Equipment so delivered, as certified to the Trustee by the President or a Vice President of the Company, and the amount of Deposited Cash (as defined in Section 3 of Article I of said Agreement) payable to the Vendors in respect thereof as provided in Section 3 of Article I of said Agreement, provided that the aggregate of all amounts so paid to the Trustee shall never be less than 20 per cent of the cost of all the Trust Equipment which shall then and theretofore have been delivered hereunder.

(c) The necessary and reasonable expenses of the trust, including all expenses connected with the Trust Equipment and this Lease thereof; expenses incurred or sustained by the Trustee in connection with any purchase or sale of Government Securities; and, when and as demanded by the Trustee, any sums which shall be required in order to enable the Trustee to restore to Deposited Cash, in accordance with the provisions of Section 9 of Article V of said Agreement, the full amount or amounts thereof which it shall have invested in Government Securities.

(d) Any and all taxes, assessments and governmental charges upon the income or property of the trust, or the agreements evidencing the same, which the Trustee under said Agreement may be required to pay, but excluding any and all taxes, assessments and governmental charges which the Company or the Trustee may be required to pay or to retain from the principal of the Trust Certificates issued as provided in said Agreement (herein called the Trust Certificates) or from the dividends payable thereon, under any present or future law of the United States of America or of any state, county, municipality or other taxing authority therein.

(e) The dividend warrants attached to the Trust Certificates when and as the same shall become payable, and in case of the issue of temporary certificates

The Company shall not be required, however, to pay any tax, assessment or 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 Trust Certificate holders may be materially endangered.

Second. This Lease shall continue in force until the rent so paid hereunder shall furnish moneys sufficient to meet, discharge and cancel all the interests in said Illinois Central Equipment Trust, Series V, created in respect of the Trust Equipment, and the dividends thereon, as well as the other payments and charges aforesaid. At the termination of this Lease and after all such payments shall have been completed and fully made to the Trustee, the Trust Equipment hereby leased shall be assigned and transferred by the Trustee to the Company or its nominee or nominees, and shall be and become the absolute property of 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 ownership of all the Trust Equipment shall be reserved to and remain in the Trustee, notwithstanding the delivery of the Trust Equipment to and the possession and use thereof by the Company.

Third. It being desirable for the interests of both parties to this Lease that any of the Trust Equipment which in any respect shall have become unsuitable for the use of the Company shall be promptly sold and replaced, it is hereby agreed that upon the written request of the Company, stating that the use of any of the Trust Equipment is no longer required by the Company, evidenced by a resolution of its Board of Directors or Executive Committee, the Trustee will, while the Company is not in default here-

acquired or otherwise subjected to this Lease or required or intended so to be.

Fourth. At or before the delivery to the Company of each unit of equipment constituting the Trust Equipment, there shall be plainly, distinctly, permanently and conspicuously placed and fastened upon each side of each thereof a metal plate bearing the following words, or such words shall be otherwise plainly, distinctly, permanently and conspicuously marked on each side of each thereof, in either case with appropriate changes thereof or additions thereto as from time to time may be required by law in order to protect the interest of the Trustee, in letters not less than one inch in size:

"Illinois Central Equipment Trust, Series Y, The Pennsylvania Company for Banking and Trusts, Philadelphia, Pa., Trustee, Owner and Lessor."

Such plate or marks shall be such as to be readily visible and as to indicate plainly the Trustee's ownership of said 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 cause the same to be restored, or replaced. The Company will not change, or permit to be changed, the numbers upon equipment covered by this Lease (nor any numbers which may be substituted as herein provided), except in accordance with a statement of new numbers to be substituted therefor, which shall previously have been filed with the Trustee by the Company.

The Trust Equipment may be lettered "Illinois Central Railroad Company," "Illinois Central," "I. C.," 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. Nothing in this paragraph shall prohibit the use of equipment herein leased under any pooling arrangement that may be required during the life thereof by governmental agencies, or that may be desired by the Company, so long as identification of the leasehold interest of the Company is evidenced, and where it becomes necessary to show the name of any person, association or corporation on any of the Trust Equipment, such designation shall be in a manner that will not cause interpretation of a claim of ownership thereof by the Company or by any person, association or corporation other than the Trustee.

Fifth. (a) The Company, during the continuance of this Lease, will maintain and keep all of the Trust Equipment in good order and repair, at its own proper cost and charge, and will replace, at its own cost, any of the Trust Equipment that may be worn out, lost or destroyed, by other new standard gauge railroad rolling stock (other than work equipment) of a value at least equal to the fair value (determined as provided in Article Third hereof), immediately prior to the wearing out, loss or destruction of the Trust Equipment so replaced, the value of such other rolling stock to be figured at cost if that be below market value, or at market value if that be below cost. The title to all rolling stock procured for such replacement shall be taken in the name of the Trustee, free from liens, and such rolling stock shall be marked in accordance with the provisions of Article Fourth hereof. At the time of every such replacement the Company shall deliver to the Trustee a certificate of the President, or a Vice-President of the Company stating the fair value, determined as aforesaid, of the Trust Equipment so worn out, lost or destroyed,

as of a date immediately prior to such wearing out, loss or destruction, and the cost and the reasonable market value of such replacement, and for the purposes of this paragraph, the Trustee may conclusively rely thereon. In addition the Company shall furnish the Trustee with bills of sale of such other equipment from the manufacturers or owners to the Trustee and a certificate as to delivery in like manner as provided in Section 4 of Article I of the Agreement, together with an opinion of counsel satisfactory to the Trustee (who may be counsel to the Company) that such bill or bills of sale are valid and effective, either alone or with other instruments executed in connection therewith, to vest in the Trustee, free from all liens and encumbrances, the title to such equipment.

(b) The Company covenants and agrees to furnish to the Trustee, whenever required by the Trustee, and at least once in every year during the continuance of this Lease, an accurate statement of the amount, description and numbers of the Trust Equipment then covered hereby, and the amount, description and numbers of all that may have been worn out, lost or destroyed by accident or otherwise, and the number of cars repaired during the previous year. Together with said statement the Company shall also furnish to the Trustee a statement signed by its General Superintendent of Equipment, stating that in the case of all of the Trust Equipment repainted during the preceding year, the mark required by Article Fourth hereof has been preserved, or that the same when repainted has been again marked as required by said Article. And the Trustee shall have the right, by its agents, to inspect the Trust Equipment once in every year during the continuance of this Lease.

(c) The Company covenants and agrees to indemnify and protect the Trustee in the use of any and all patented inventions employed in and about the Trust Equipment and to comply in all respects with the laws of the United States

of America and of all the states in which the Trust Equipment or any thereof may be operated and with all lawful acts, rules, regulations and orders of the Interstate Commerce Commission and of all other commissions, boards and other legislative, executive, administrative or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; provided, however, that the Company may in good faith contest the validity of any such law, act, rule, regulation or order or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Trustee, materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates.

Sixth. The Company, so long as it shall not be in default under this lease, shall be entitled to the possession of the Trust Equipment and the use thereof upon the lines of railroad owned or operated by it or over which it has trackage rights, and upon connecting and other railroads in the usual interchange of traffic, from and after the delivery of the Trust Equipment by the Trustee to the Company, but only upon and subject to all the terms and conditions of this Lease.

The Company will not either assign or transfer this Lease, or transfer or sublet the Trust Equipment or any part thereof, without the written consent of the Trustee first had and obtained; and the Company shall not, without such written consent, except as hereinbefore provided, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment (except as to any pooling arrangement that may be required by any governmental agency or which may seem desirable on

deposit with the Trustee a sum in cash equal to the original cost of the Trust Equipment so assigned or transferred or subleased, as certified to the Trustee by the President or a Vice-President of the Company (any sum so deposited to be returned to the Company upon the cancellation of such assignment, transfer or sublease and the recovery of possession by the Company of such Trust Equipment), or

(3) shall, for more than ninety (90) days after the Trustee shall have demanded in writing performance thereof, fail or refuse to comply with any other of the terms and covenants herein or in said Agreement on its part to be kept and performed, or to make provision satisfactory to the Trustee for such compliance, then, in any such case (herein and in said Agreement sometimes called events of default), the Trustee at its option may by its agents, enter upon the railroads and premises of the Company and take possession of all or any part of the Trust Equipment, and withdraw the same from said railroads and premises, retaining all payments which up to that time may have been made on account of rental for the Trust Equipment and otherwise, and shall be entitled to collect, receive and retain all unpaid per diem, mileage or other charges of any kind earned by the Trust Equipment or any thereof, and may lease the Trust Equipment or any part thereof, or sell the same or any part thereof, so far as may be necessary to perform and fulfill the trusts under said Agreement, at public or private sale, for cash or upon credit, in its discretion, and otherwise proceed to enforce its rights and the rights of the owners of interests under said Agreement and under this Lease in the manner therein and herein provided; and upon such taking possession or withdrawal or lease or sale of the Trust Equipment, the Company shall cease to have any rights or remedies in respect of the Trust Equipment under this Lease, but all such rights and remedies shall be deemed thenceforth to have

same, and for such purpose the Company agrees to furnish without charge for rent or storage 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 of equity having jurisdiction in the premises the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

The remedies in this Lease and in said Agreement provided in favor of the Trustee and the holders of Trust Certificates, or any of them, shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity.

Eighth. This Lease shall be simultaneously executed in twenty-five 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.

The Pennsylvania Company for Banking and Trusts, Trustee, doth hereby constitute and appoint Wm. M. David to be its attorney for it, and in its name and as and for its corporate act and deed to acknowledge this Lease, before any person having authority by the laws of the Commonwealth of Pennsylvania or elsewhere to take such acknowledgment, to the intent that the same may be duly recorded.

Illinois Central Railroad Company doth hereby constitute and appoint R. E. Connolly to be its attorney for it, and in its name and as and for its corporate act and deed to acknowledge this Lease, before any person having authority by the laws of the Commonwealth of Pennsylvania or elsewhere to take such acknowledgment, to the intent that the same may be duly recorded.

In witness whereof, the Trustee, acting in accordance

been waived and surrendered by the Company; and no payments theretofore made by the Company for the rent or use of the Trust Equipment, or any of it, shall, in case of the happening of any such event of default and such taking possession, withdrawal, lease or sale by the Trustee, give to the Company any legal or equitable interest or title in or to the Trust Equipment, or any of it, or any cause or right of action, at law or in equity, in respect of the Trust Equipment against the Trustee or the owners of interest in said Illinois Central Equipment Trust, Series Y; and such taking possession or withdrawal or lease or sale of the Trust Equipment by the Trustee shall not be a bar to the recovery by the Trustee from the Company for rentals then or thereafter due and payable, and the Company shall be and remain liable for the same, until such sum shall have been realized as with the proceeds of the lease or sale of the Trust Equipment shall be sufficient for the discharge and payment in full of all the various items mentioned in subdivisions (a), (b), (c), (d), (e), (f), (g) and (h) of Article First hereof, whether they shall have then matured or not.

In case the Trustee shall rightfully demand possession of the Trust Equipment in pursuance of this Lease, and shall reasonably designate a point or points upon the railroad of the Company, or upon the railroad of any company a majority of whose capital stock is at the time directly or indirectly owned 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 the usual speed of freight trains, cause the Trust Equipment to be moved to such point or points on said railroads as shall be designated by the Trustee and will there deliver or cause to be delivered the same to the Trustee; or at the option of the Trustee it 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 have disposed of the

with the terms and conditions of said Agreement, and the Company, 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.

THE PENNSYLVANIA COMPANY FOR BANKING AND TRUSTS,

Trustee,

By Wm M. David

Vice-President.

Attest: Robert H. Tice

Assistant Secretary.

Signed, sealed and delivered by The Pennsylvania Company for Banking and Trusts in the presence of:

O B Gubbins

E F Hunter

ILLINOIS CENTRAL RAILROAD COMPANY,

By A Donnelly

Vice-President.

Attest: A Schutz

Assistant Secretary.

Signed, sealed and delivered by Illinois Central Railroad Company in the presence of:

O B Gubbins

E F Hunter

UNITED STATES OF AMERICA,
STATE OF NEW YORK,
COUNTY OF NEW YORK. } ss.

I, JOHN M. BOYCE, a notary public in and for the County of New York, State of New York, do hereby certify and be it remembered that the above annexed and foregoing instrument of writing was produced to me in my county by the parties thereunto on this 21st day of August, 1947, and that this day at the same time before me the undersigned, a notary public duly commissioned and qualified within and for the county aforesaid personally and in person came and appeared the above and within-named Wm. M. David, Vice-President of the above-named The Pennsylvania Company for Banking and Trusts, a corporation duly organized, incorporated and existing under and by the laws of the Commonwealth of Pennsylvania, and Robert H. Tice, Assistant Secretary of said The Pennsylvania Company for Banking and Trusts, one of the corporations described in and that executed the within instrument, with each of whom I am personally acquainted, and who are to me known and personally known to me to be the same identical persons whose names are affixed, signed and subscribed to said instrument and whose names are signed to the foregoing instrument as such Vice-President and Assistant Secretary, respectively, as having executed the same, and who are personally known to me to be such Vice-President and Assistant Secretary, officers of the corporation described in the within instrument, having authority to execute such instrument, 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-Presi-

dent and Assistant Secretary, respectively, of said The Pennsylvania Company for Banking and Trusts, a corporation party thereunto, to be the act and deed of said corporation by them as Vice-President and Assistant Secretary, respectively, and the said Robert H. Tice, as Assistant Secretary of said corporation, attested and proved before me, the seal of said corporation as affixed to said instrument; and furthermore, they severally upon oath acknowledged themselves before me and in the presence of said witnesses to be the Vice-President and Assistant Secretary, respectively, of said corporation, the within-named party of the first part, and further severally acknowledged to me the execution of the said foregoing instrument on behalf of said corporation and they severally acknowledged the execution of the same to be the act and deed of said corporation, that such corporation executed the same and that being informed of the contents of the instrument they, as such Vice-President and Assistant Secretary, respectively, with full authority as such officers and 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 acts and deeds as such Vice-President and Assistant Secretary, respectively, for the consideration, uses and purposes therein set forth.

And at the same time the said Wm. M. David, being by me duly sworn, did depose and say that he resides in the City of Philadelphia, in the County of Philadelphia, Commonwealth of Pennsylvania; that he is a Vice-President of said The Pennsylvania Company for Banking and Trusts, one of the corporations described in and which executed

the above instrument; that he knows the seal of said corporation; that the said 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 order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order and he acknowledged said instrument to be the voluntary act and deed of said corporation.

And I do hereby further certify that the foregoing instrument was executed 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, and have caused said appearers and witnesses to sign this acknowledgment.

John M. Boyce

Notary Public.

I am not a Stockholder, Director or Officer of the within mentioned Corporation.

John M Boyce

Notary Public.

Appearers: Wm M David
Robert H Tice

JOHN M. BOYCE
Notary Public, [illegible], New York County
[illegible]
N.Y. Co. Clk's No. 125, Reg. No. [illegible]
Kings Co. Clk's No. 31, Reg. No. [illegible]
Queens Co. Clk's No. 2005, Reg. No. [illegible]
Bronx Co. Clk's No. 31, Reg. No. [illegible]
Richmond Co. Clk's No. 24
Commission Expires March 30, 1949

Witnesses: O B Gubbins
E F Hunter

UNITED STATES OF AMERICA,
STATE OF NEW YORK,
COUNTY OF NEW YORK. } ss.

I, JOHN M. BOYCE, a notary public in and for the County of New York, State of New York, do hereby certify and be it remembered that the above annexed and foregoing instrument of writing was produced to me in my county by the parties thereunto on this 21st day of August, 1947, and that this day at the same time before me the undersigned, a notary public duly commissioned and qualified within and for the county aforesaid personally and in person came and appeared the above and within-named R. E. Connolly, Vice-President of the above-named Illinois Central Railroad Company, a corporation duly organized, incorporated and existing under and by the laws of the State of Illinois, and A. B. Huttig, Assistant Secretary of said Illinois Central Railroad Company, one of the corporations described in and that executed the within instrument, with each of whom I am personally acquainted, and who are to me known and personally known to me to be the same identical persons whose names are affixed, signed and subscribed to said instrument and whose names are signed to the foregoing instrument as such Vice-President and Assistant Secretary, respectively, as having executed the same, and who are personally known to me to be such Vice-President and Assistant Secretary, officers of the corporation described in the within instrument, having authority to execute such instrument, 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 Illinois Central Railroad Company, a corporation party thereunto, to be the act and deed of said corporation by them as Vice-President and Assistant Secretary, respectively, and the said A. B. Huttig, as Assistant Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore they severally upon oath acknowledged themselves before me and in the presence of said witnesses to be the Vice-President and Assistant Secretary, respectively, of said corporation, the within-named party of the second part, and further severally acknowledged to me the execution of the said foregoing instrument on behalf of said corporation and they severally acknowledged the execution of the same to be the act and deed of said corporation, that such corporation executed the same and that being informed of the contents of the instrument they, as such Vice-President and Assistant Secretary, respectively, with full authority as such officers and 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 acts and deeds as such Vice-President and Assistant Secretary, respectively, for the consideration, uses and purposes therein set forth.

And at the same time the said R. E. Connolly, being by me duly sworn, did depose and say that he resides in Flossmoor, in the County of Cook, State of Illinois; that he is a Vice-President of said Illinois Central Railroad Company, one of the corporations described in and which executed the above instrument; that he knows 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 order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order and he acknowledged said instrument to be the voluntary act and deed of said corporation.

And I do hereby further acknowledge 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, and have caused said appearers and witnesses to sign this acknowledgment.

John M Boyce
Notary Public.

I am not a Stockholder, Director or Officer of the within mentioned Corporation.

John M Boyce
Notary Public.

Appearers:

R E Connolly
A B Huttig

JOHN M. BOYCE
Notary Public, State of New York
No. [illegible] in New York County
N.Y. Co. Clk's No. [illegible] Reg. No. [illegible]
Kings Co. Clk's No. [illegible] Reg. No. [illegible]
Queens Co. Clk's No. [illegible] Reg. No. [illegible]
Bronx Co. Clk's No. [illegible] Reg. No. [illegible]
Richmond Co. Clk's No. [illegible]
Commission Expires March 30, 1949

Attesting Witnesses:

E B Feldmann
G L Hunter

Form 1

State of New York
County of New York } ss.: No. 50250

I, ARCHIBALD R. WATSON, County Clerk and Clerk of the Supreme Court, New York County, a Court of Record having by law a seal, DO HEREBY CERTIFY that

JOHN M BOYCE

whose name is subscribed to the annexed affidavit, deposition, certificate of acknowledgment or proof, was at the time of taking the same a NOTARY PUBLIC in and for the State of New York, duly commissioned and sworn and qualified to act as such throughout the State of New York; that pursuant to law a commission, or a certificate of his appointment and qualifications, and his autograph signature, have been filed in my office; that as such Notary Public he was duly authorized by the laws of the State of New York to administer oaths and affirmations, to receive and certify the acknowledgment or proof of deeds, mortgages, powers of attorney and other written instruments for lands, tenements and hereditaments to be read in evidence or recorded in this State, to protest notes and to take and certify affidavits and depositions; and that I am well acquainted with the handwriting of such Notary Public, or have compared the signature on the annexed instrument with his autograph signature deposited in my office, and believe that the signature is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 21 day of [illegible] 194[illegible]

FEE PAID 25¢

THIS AGREEMENT, dated the first day of August, 1947, by and between **GEORGE SMITH** and **H. J. WYLIE** (hereinafter called the Vendors), of the first part, **THE PENNSYLVANIA COMPANY FOR BANKING AND TRUSTS** (hereinafter called the Trustee), of the second part, and **ILLINOIS CENTRAL RAILROAD COMPANY** (hereinafter called the Company), of the third part, WITNESSETH as follows:

WHEREAS, the Vendors have contracted or will contract to acquire the railroad equipment specifically described in the Lease of Railroad Equipment from the Trustee to the Company prefixed to this Agreement, to which lease reference is hereby made; and

WHEREAS, subscriptions have been or will be secured from time to time for the aggregate principal amount of Eleven million three hundred sixty thousand dollars ($11,360,000) to a fund to be known as the Illinois Central Equipment Trust, Series Y, 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 in case said railroad equipment shall not cost at least $14,214,609, other railroad equipment of such cost that the aggregate cost of all railroad equipment acquired for said trust (in said Lease and hereinafter called the Trust Equipment) shall be at least $14,214,609; and

WHEREAS, said Vendors desire to secure to the parties subscribing to said fund, or their assigns, the payment of the amount thereof in twenty semi-annual installments, payable respectively on February 1 and August 1 in each year, from February 1, 1948 to August 1, 1957, both inclusive, as hereinafter more particularly provided, with divi-

dends to said dates of maturity respectively at the rate or rates per annum determined as hereinafter provided, from August 1, 1947, payable semi-annually on February 1 and August 1, in each year; and to evidence the rights of the subscribers to said fund by Trust Certificates in substantially the form hereinafter set forth;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE MUTUAL COVENANTS HEREIN CONTAINED, THE PARTIES HERETO AGREE AS FOLLOWS:

ARTICLE I.

SECTION 1. 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 owners of the Trust Certificates hereinafter described, the Trust Equipment, and also all claims, demands and remedies of said Vendors accruing or to accrue under their contract or contracts for the construction and delivery of the Trust Equipment. The Vendors will deliver, or cause to be delivered, the Trust Equipment 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 and agents of the Company, and the certificate of any and every agent so designated shall be conclusive evidence of such delivery. The Trustee and the Company shall simultaneously herewith execute and deliver the Lease of Railroad Equipment prefixed hereto.

SECTION 2. The Trustee shall at any time, or from time to time, upon request of the Vendors and without awaiting the registration, filing or recording of this agreement or of said lease, execute and deliver to the Vendors, or upon their order, for distribution to said several subscribers, Trust Certificates (hereinafter called the Trust Certificates) to such principal amount not exceeding in the aggregate $1,360,000.00 as shall be designated in such request, upon the deposit in cash with the Trustee, or to its credit with such banks or bankers in the City of New York as may be designated by the Vendors and approved by the President or a Vice-President of the Company, and also approved by a Vice-President or the Secretary of the Trustee, of an amount equal to the proceeds of the sale of the Trust Certificates the execution and delivery of which shall be so requested, together with any installments of rental due under subdivisions (a) and (h) of Article First of said Lease. The Trustee may likewise cause to be deposited with such banks or bankers the installments of rental payable to it on each delivery of Trust Equipment pursuant to subdivision (b) of Article First of said Lease and any sums received by it pursuant to Article Third of said Lease.

Any interest allowed by the Trustee or said banks or bankers upon any moneys so deposited shall belong to the Company, and be paid to it by or upon the order of the Trustee, so long as it shall not be in default hereunder or under said Lease, in lieu of the use of the Trust Equipment for the period before the delivery thereof. The certificates of the banks or bankers so designated, stating that they hold a stated amount subject to the order of the Trustee, shall be full protection to the Trustee for its action on the faith thereof. Said banks or bankers shall be fully protected in paying said moneys so deposited with them, and any such interest, to or upon the order of the Trustee, and shall be under no obligation to see to the application thereof in accordance with the provisions of this Agreement.

SECTION 3. The cash deposited with or to the credit of the Trustee, constituting said fund, or a part thereof, as in

Section 2 of this Article I provided, the rentals, if any, under subdivisions (a) and (h) of Article First of said Lease deposited with or to the credit of the Trustee, any sums restored to Deposited Cash from rentals under subdivision (c) of Article First of said Lease (the aggregate of said sums hereinabove in this Section 3 mentioned being hereinafter called the Deposited Cash), and any installments of advance rental payable on delivery of Trust Equipment pursuant to subdivision (b) of Article First of said Lease, shall, until paid out by the Trustee as herein provided, be held for the benefit of the holders of the Trust Certificates. Whenever from time to time any of the Trust Equipment shall thereafter be transferred and delivered to the Trustee, the Trustee shall, if requested so to do, subject to the provisions of Section 4 of this Article I, pay to the Vendors, or upon their order, out of the Deposited Cash, an amount equal to 80 per cent of the cost of the Trust Equipment so transferred and delivered to it, and shall make payment of the remainder thereof out of the installment of rental payable on such delivery pursuant to subdivision (b) of Article First of said Lease.

SECTION 4. The Trustee shall not pay out any Deposited Cash against the delivery of any of the Trust Equipment unless and until it shall have received

(a) a certificate of the agent or agents designated by the Trustee to receive delivery of the Trust Equipment stating that Trust Equipment specified by number in such certificate has been delivered to such agent or agents and marked in accordance with the provisions of Article Fourth of said Lease;

(b) a bill or bills of sale of such Trust Equipment from the manufacturers or owners to the Trustee, containing or accompanied by a warranty or guaranty of such manufacturers or owners to the Trustee that the title to the Trust Equipment described therein is free from all liens and encumbrances;

(c) an opinion of counsel satisfactory to the Trustee (who may be counsel to the Company) that such bill or bills of sale are valid and effective to vest in the Trustee, free from all liens and encumbrances, the title to such Trust Equipment;

(d) in case of any of the Trust Equipment not specifically described in the Lease but acquired as hereinafter in Section 5 of this Article I provided, an opinion of counsel satisfactory to the Trustee (who may be counsel to the Company) that a proper supplemental lease of said equipment from the Trustee to the Company has been duly executed by the Trustee and the Company and is sufficient in form to permit it to be duly filed or recorded in all states wherein this Agreement and said Lease are required to be filed or recorded; and

(e) a certificate as to the cost of such Trust Equipment signed by the President, or a Vice-President of the Company, which certificate may state either that the cost of such Trust Equipment is an amount therein specified or that the cost of such Trust Equipment is not less than an amount therein specified, and shall be conclusive evidence of such cost.

SECTION 5. The Company, in case the total cost of the railroad equipment specifically described in said Lease shall not be at least $14,214,609, will, for account of the Vendors, cause to be vested in the Trustee by the manufacturers or owners thereof, absolutely and free from all liens and encumbrances, additional new standard gauge railroad rolling stock, (other than work equipment), approved as to character by the company, of such cost that the total cost of all railroad equipment acquired for the Trust by this Agreement created will be at least $14,214,609; and upon the transfer and delivery of such new railroad equipment to the Trustee, the same shall be and become a part of the Trust Equipment. Upon such transfer and delivery, the Vendors shall be entitled to receive the

payments provided for by Section 3 of this Article I upon the terms and conditions therein contained.

As used in this Agreement and in said Lease, the term "cost" of the Trust Equipment shall include the cost represented by bills of the manufacturers and additional charges such as cost of inspection, miscellaneous personal property, and the like, 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, the certificate of the Vendors as to the cost of the materials or parts purchased by the Vendors and furnished by them to the manufacturers, 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 (as shown by certificates of the Vendors), on the price of the Trust Equipment or any parts or materials thereof, which have been or may hereafter be allowed to the manufacturers, the Vendors or the Company 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 prior to or contemporaneously with such payments, and which bills and certificates shall be verified and approved in a manner satisfactory to the Trustee by the Company and by said Vendors, acting through agents duly authorized, after which said bills and certificates shall conclusively establish the total cost of the Trust Equipment. In the event that the Vendors are unable to certify the total cost of any unit of such Trust Equipment with complete accuracy at the time of the delivery to the Trustee of the bill of sale therefor, said certificate may state that the total cost therein stated is estimated and the Company and the Vendors covenant and agree in each such case to certify, in the manner above set forth, a final and accurate certificate of total cost as soon as the complete figures are available, and at the same time to pay to the Trustee the amount, if any, by which the estimated total cost shall have exceeded the actual total cost. The Trustee shall be authorized to make payment from time to time to the Vendors, or upon their order, against tentative certificates of total cost, and may at all times conclusively rely upon the final certificates of total cost as furnished to it by the Vendors.

SECTION 6. The provisions of the preceding sections of this Article I are intended to permit (upon compliance with the conditions and requirements thereof) deliveries from time to time of portions of the Trust Equipment listed in any one item of the description thereof contained in the aforesaid Lease, or any supplement thereto, and the payment out of the Deposited Cash or out of the installment of rental payable on such delivery pursuant to subdivision (b) of Article First of said Lease, as against such deliveries; and shall not be construed as requiring deliveries of all of the equipment listed in any one item of such description as a condition to such issuance or payment.

SECTION 7. 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 Eleven million three hundred sixty thousand dollars ($11,360,000) at any one time outstanding, subject, however, to the provisions of Section 6 of Article II hereof.

ARTICLE II.

SECTION 1. Each of the Trust Certificates shall represent an interest to the amount of one thousand dollars ($1,000) in the trust of the Trust Equipment hereby created, and the holder or registered owner thereof shall be entitled to receive dividends on said amount from August 1, 1947, payable semi-annually on the first day of February and of August in each year. Whenever Trust Certificates shall be issued hereunder from time to time pursuant to Section 2 of Article I hereof, the installment of Trust Certificates so issued shall consist of an equal amount of Trust Certificates becoming due and payable on each maturity date after such issue. The respective maturity dates of the Trust Certificates, when issued, shall be as follows:

Date of Maturity	Principal Amount not exceeding
February 1, 1948	$568,000
August 1, 1948	568,000
February 1, 1949	568,000
August 1, 1949	568,000
February 1, 1950	568,000
August 1, 1950	568,000
February 1, 1951	568,000
August 1, 1951	568,000
February 1, 1952	568,000
August 1, 1952	568,000
February 1, 1953	568,000
August 1, 1953	568,000
February 1, 1954	568,000
August 1, 1954	568,000
February 1, 1955	568,000
August 1, 1955	568,000
February 1, 1956	568,000
August 1, 1956	568,000
February 1, 1957	568,000
August 1, 1957	568,000

The due date of each Trust Certificate and the rate of dividend payable thereon shall appear upon its face. The

Trust Certificates shall be numbered from 1 consecutively upward to 11,360, both inclusive, omitting any numbers, which would have been used to designate trust certificates of earlier maturities which may not be issued hereunder.

Dividend warrants evidencing the right of the holders of the Trust Certificates to the dividends thereon, shall be annexed to the respective Trust Certificates. Dividends on the first installment of Trust Certificates issued hereunder, in the aggregate principal amount of $2,500,000, shall be payable at the rate of _____ per centum (____%) per annum; dividends on any installment of Trust Certificates issued thereafter shall be payable in each case at a rate to be determined, at the time of delivery thereof by the Trustee, by written instructions from the Vendors and the Company to the Trustee. In the case of Trust Certificates issued and delivered on or after February 1, 1948, all matured dividend warrants shall be detached therefrom. All dividends on the respective Trust Certificates shall cease after the principal thereof shall have become due.

SECTION 2. The Trust Certificate, the dividend warrants to be annexed thereto, and the guaranty to be endorsed thereon by the Company as hereinafter in Article III provided, shall be in substantially the following forms:

(Form of Trust Certificate)

Number _____

$1,000 $1,000

ILLINOIS CENTRAL EQUIPMENT TRUST,

Series Y.

Total Authorized Issue $11,360,000.

Dividends at the Rate of _____ Per Cent (__%) Per Annum

Payable February 1 and August 1.

The Pennsylvania Company for Banking and Trusts, of Philadelphia, Pennsylvania, Trustee.

Principal hereof due _____ 1, 19____

The Pennsylvania Company for Banking and Trusts, Trustee under an Agreement dated August 1, 1947, between George Smith and H. J. Wylie, Vendors, parties of the first part, The Pennsylvania Company for Banking and Trusts, Trustee, party of the second part, and Illinois Central Railroad Company, party of the third part, hereby certifies that the bearer hereof, or if this certificate be registered, the registered holder hereof, is entitled to an interest of One Thousand Dollars ($1,000) in the Illinois Central Equipment Trust, Series "Y", payable on _____ 1, 19____, and to dividends thereon at the rate of _____ per cent (_____%) per annum, from August 1, 1947, to said date of maturity, payable semiannually on the first day of February and the first day of August 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 agency of the Trustee in the Borough of Manhattan in the City of New York, in the 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 rentals received by the Trustee from a certain Lease of Railroad Equipment made by The Pennsylvania Company for Banking and Trusts, Trustee, to Illinois Central Railroad Company, dated August 1, 1947.

This certificate is one of an issue of certificates in an aggregate principal amount not exceeding Eleven Million Three Hundred Sixty Thousand Dollars ($11,360,000), issuable in two or more installments, all such certificates to be substantially identical in tenor except as to dates of maturity and dividend rate thereon, and 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 from time to time in varying amounts against the payment 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, in whole or in part, from time to time and in varying amounts upon delivery and receipt of said railroad equipment and for the purpose of providing for the purchase of said railroad equipment. Reference is made to the Agreement and Lease filed with the Trustee at its principal office in the City of Philadelphia in the Commonwealth of Pennsylvania for a further statement of the rights of the bearer or registered holder hereof, the rights and the duties of the Trustee, and the obligations of Illinois Central Railroad Company under said Agreement and Lease.

This certificate may be registered as to principal in the name of the holder hereof at the agency of the Trustee in the Borough of Manhattan in the City of New York, in the State of New York, and such registration shall be noted hereon by or on behalf of the Trustee. Thereafter title to the interest in the Illinois Central Equipment Trust, Series "Y", 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 Illinois Central Railroad Company that delivery of this certificate (unless it be registered in the name of the holder) or any such dividend warrant by any 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 Illinois Central Railroad 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 Illinois Central Railroad Company, in said Agreement and 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.

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 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 the first day of August, 1947.

THE PENNSYLVANIA COMPANY FOR BANKING AND TRUSTS,

Trustee,

By _____,

Vice-President.

Attest:

_____

Assistant Secretary.

(Form of Dividend Warrant)

$_____ No._____

Due to the bearer hereof on the first day of _____ on surrender hereof at the agency of the Trustee in the Borough of Manhattan in the City of New York, in the State of New York, _____ Dollars ($_____), 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, being the semi-annual dividend then due on Certificate No. _____ of the Illinois Central Equipment

Trust, Series "Y", but only out of rentals received by the Trustee under the Lease referred to in said certificate.

THE PENNSYLVANIA COMPANY FOR BANKING AND TRUSTS,

Trustee,

By _____

Treasurer.

(Form of Guaranty)

Illinois Central Railroad 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 of all dividends thereon at the rate of _____ per cent (_____%) per annum on the semi-annual dates and for the period mentioned in said certificate, all 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.

ILLINOIS CENTRAL RAILROAD COMPANY,

By _____

Vice-President.

SECTION 3. 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 shall be thereunto affixed and attested by its Secretary or one of its Assistant Secretaries. In case any of the officers of the Trustee who shall have signed and sealed any of the Trust Certificates shall cease to be such officers of the Trustee before the Trust Certificates so signed and sealed shall have been issued and delivered by the Trustee, such Trust Certificates shall be adopted by the Trustee and be issued and delivered as though the persons who signed and sealed

such certificates had not ceased to be such officers of the Trustee. The dividend warrants to be thereunto attached shall be authenticated by the facsimile signature of the present or any future Treasurer of the Trustee; the Trustee shall adopt and use for that purpose any such facsimile signature notwithstanding the fact that such Treasurer shall have ceased to be such Treasurer at the time when any Trust Certificate shall be issued and delivered as herein provided. Before executing or delivering any Trust Certificate all matured dividend warrants thereto appertaining shall be cut off and cancelled and delivered by the Trustee to the Company.

SECTION 4. Temporary printed Trust Certificates, with or without dividend warrants, in such form and denominations as the Trustee may determine, may be issued by the Trustee, having endorsed thereon said guaranty of the Company, which shall be exchangeable upon surrender for definitive Trust Certificates, having endorsed thereon said guaranty of the Company, when the same shall have been prepared. Each of such temporary Trust Certificates shall designate the date or dates of maturity of the definitive Trust Certificate or Certificates for which it is exchangeable, 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.

SECTION 5. Any of the definitive Trust Certificates may be registered in the name of the holder at the agency of the Trustee in the Borough of Manhattan in the City 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 agency by the registered owner 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 Trust Certificates may again and from time to time be registered or transferred to bearer as before.

Such registration, however, shall not affect the dividend warrants, but every such dividend warrant shall continue to be transferable by delivery merely and shall remain payable to bearer.

Anything to the contrary herein notwithstanding the parties hereto may deem and treat the bearer of any unregistered Trust Certificate 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 thereof, 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 owner of any registered Trust Certificate as the absolute owner of such Trust Certificate for all purposes except payment of dividends, and shall not be affected by any notice to the contrary.

For any registration, transfer or discharge from registration, 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.

SECTION 6. In case any Trust Certificate, or the dividend warrants thereto attached, shall become mutilated or defaced or be lost or destroyed, then on the terms herein set forth, and not otherwise, the Trustee shall execute and deliver a new Trust Certificate (and the Company at the request of the Trustee shall execute its guaranty thereon), with all unmatured dividend warrants appertaining thereto, of like maturity, tenor and date, and bearing the

same serial number as the one mutilated, defaced, lost or destroyed, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Trust Certificate and warrants, or in lieu of and substitution for the same if lost or destroyed, and make payment of any matured dividend warrants appertaining to the same. The applicant for a substituted Trust Certificate shall furnish to the Trustee and to the Company evidence to their satisfaction of the loss or destruction of such Trust Certificate or warrants alleged to have been lost or destroyed, and of the ownership and authenticity of such mutilated, defaced, lost or destroyed Trust Certificate and warrants, and also such security or 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, defaced, lost 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.

ARTICLE III.

SECTION 1. 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 expenses of the Trustee, and of all taxes, assessments and governmental charges mentioned in Article First of said Lease for which the Trustee may be liable, other than taxes, assessments and governmental charges which the Trustee or the Company may be required to pay or to retain from the principal of the Trust Certificates or the dividends payable in respect thereof under any present or

future law of the United States of America or of any state, county, municipality or other taxing authority therein.

SECTION 2. The Company covenants and agrees and guarantees that the holder or registered owner of each of the Trust Certificates shall receive the sum of One Thousand Dollars, or in case of temporary Trust Certificates, the principal amount thereof, in such coin or currency of the United States of America as at the time of payment is legal tender for 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 respective dividend warrant rates borne by the Trust Certificates, from August 1, 1947, to the date of maturity of such Trust Certificate, and at the times and place and otherwise as expressed in the Trust Certificates and in the dividends warrants thereto attached; 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 in Section 2 of Article II hereof provided. Said guaranty so endorsed shall be signed in the name and on behalf of the Company by its President or one of its Vice-Presidents. In case any officers of the Company who shall have signed such guaranty shall cease to be such officers of the Company before the Trust Certificates shall have been actually issued and delivered by the Trustee, such guaranty shall nevertheless be as effective and binding upon the Company as though the persons who signed such guaranty had not ceased to be such officers of the Company.

SECTION 3. The Company covenants and agrees that it will pay or cause to be paid or discharged, or make ade-

quate provision for the satisfaction or discharge of any claim which, if unpaid, might become a lien or charge upon or against any of the Trust Equipment, except upon the leasehold interest of the Company therein; but this provision shall not require the payment of any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings unless thereby in the opinion of the Trustee, the rights of the Trust Certificate holders may be materially endangered.

SECTION 4. The Company covenants and agrees to pay the expenses incident to the preparation and execution of the Trust Certificates and dividend warrants, including any temporary Trust Certificates to be issued hereunder, and the expenses connected with the preparation, execution, recording, registration and filing hereof or of said Lease and of any instruments executed under the provisions hereof or of said Lease in respect to the Trust Equipment or said Lease, or any equipment or parts used to replace any of the same. The Company with all convenient speed will cause this Agreement and said Lease and all supplemental leases and agreements which may be executed under the terms of this Agreement or of said Lease, to be duly filed and recorded in all states wherein are situated railroad lines owned or operated by the Company or over which the Company has trackage rights, and otherwise as may be required by law, so that this Agreement and said Lease and all said other instruments may at all times be duly filed and recorded.

SECTION 5. The Company covenants and agrees from time to time to do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and said Lease and the intent thereof.

ARTICLE IV.

SECTION 1. In order to prevent any accumulation of Trust Certificates 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 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 said Trust Certificates 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 Certificates 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 Certificates or dividend warrants 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 Certificates and dividend warrants shall not be entitled to the benefit of said Lease or of this Agreement, except subject to the prior payment in full of the principal of all other Trust Certificates and dividend warrants whether the same be then matured or unmatured.

SECTION 2. In case one or more of the events of default described in Article Seventh of said Lease shall happen, the Trustee in its discretion may, and at the request of the holders of a majority in amount of the Trust Certificates then outstanding shall, declare the principal of all of said

Trust Certificates to be due and payable, and thereupon the same shall become and be immediately due and payable. In any such case (whether or not the principal of the Trust Certificates shall have been declared due and payable) 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 or private sale, for cash or upon credit, as the Trustee may deem most beneficial to the interests of the holders of said Trust Certificates. In case one or more of said events of default shall happen (whether the principal of the Trust Certificates shall have been declared due and payable or not), then upon the written request of the holders of 25% of the principal amount of the Trust Certificates at the time outstanding, it shall be the duty of the Trustee, upon being indemnified as hereinafter provided, to take all steps for the protection and enforcement of its rights and the rights of the holders of the Trust Certificates, and to exercise one or more of the powers of entry, sale and lease in said 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 interest of the holders of the Trust Certificates; but, anything in this Agreement to the contrary notwithstanding, upon proper indemnity to the Trustee, the holders of a majority in amount of the Trust Certificates then outstanding from time to time, shall have the right to direct and to control the proceedings for any enforcement of said Lease and this Agreement and the sale or lease of the Trust Equipment. The proceeds of such lease or sale shall be applied by the Trustee to the payment, after deducting the expenses of the trust and all taxes, assessments and governmental charges which the Trustee may by law be required to pay in respect of the

trust or the Trust Certificates aforesaid or the dividends thereon:

(1) of the dividends then due with interest on any overdue dividends at the respective dividend warrant rates borne by the Trust Certificates; and

(2) of the principal of all said outstanding Trust Certificates with interest thereon at the respective dividend warrant rates borne by the Trust Certificates from the last preceding dividend date, whether said Certificates or any of them shall then have matured by their terms or not;

all of said payments to be in full, if said proceeds shall be sufficient, and if not, then *pro rata*, without preference of principal over dividends, or of dividends over principal or otherwise (subject, however, to Section 1 of this Article IV), and without regard to the dates of maturity thereof.

The foregoing provisions, however, are subject to the condition that if at any time after the principal of the Trust Certificates shall have been declared and have become due and payable, as hereinbefore provided, but before August 1, 1957, all arrears of rental (with interest upon any overdue installment at the respective dividend warrant rates borne by the Trust Certificates), the expenses of the Trustee and all other sums which shall have become due and payable by the company hereunder or under said Lease (other than the principal of Trust Certificates and rental installments which shall not at the time have matured according to their terms), shall be paid by the Company before any taking possession, withdrawal, sale or lease by the Trustee of any of the Trust Equipment, and every other default in the observance or performance of any covenant or condition of this Agreement or said Lease shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then

and in every such case the Trustee, if so requested by the holders of a majority in principal amount of the Trust Certificates then outstanding and which shall not have then matured according to their terms, shall, by written notice to the Company, waive the default by reason of which the principal of the Trust Certificates shall have been declared and become due and the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

Neither such retaking possession nor any withdrawal or lease or sale of the Trust Equipment by the Trustee, nor any action or failure or omission to act, against the Company or in respect to the Trust Equipment, on the part of the Trustee or on the part of any holder of any Trust Certificate or dividend warrant, nor any delay or indulgence granted to the Company by the Trustee or any such holder, shall affect the obligations of the Company under this Agreement or under said Lease or under its guaranty.

ARTICLE V.

SECTION 1. The Trustee hereby covenants and agrees to perform, and, so far as possible, to enforce the performance of, all and singular the terms, conditions and covenants of said Lease, including the marking or other specific identification of the Trust Equipment.

SECTION 2. The Trustee covenants and agrees to apply and distribute the rentals received by it under subdivision (c), other than rentals issued to restore sums to Deposited Cash, and under subdivision (d), (e), (f) and (g) of Article First of said Lease, when and as the same shall be received, for the following purposes, to wit:

(a) to the payment of the necessary and reasonable expenses of the trust connected with the Trust Equipment and said Lease thereof;

(b) to the payment of any and all taxes, assess-

ments and governmental charges upon the income or property of the trust, or the agreements evidencing the same, which the Trustee may be required to pay but excluding any and all taxes, assessments or governmental charges which the Trustee may be required to pay or to retain from the principal of the Trust Certificates or from the dividends payable thereon under any present or future law of the United States of America or of any state, county, municipality or other taxing authority therein;

(c) to the payment of the dividend warrants attached to the Trust Certificates when and as the same shall become payable;

(d) to the payment of the principal of the Trust Certificates when and as the same shall become payable according to the terms thereof or hereof; and

(e) to the payment of interest at the respective dividend warrant rate borne by the Trust Certificates on any unpaid dividend warrants, dividends or principal in the payment of which default shall have been made.

SECTION 3. The Trustee shall cause to be kept at an agency in the Borough of Manhattan in the City of New York, books for the registration and transfer of the Trust Certificates and upon presentation for such purpose the Trustee will register or cause to be registered as hereinbefore provided, and under such reasonable regulations as may be prescribed, any of the Trust Certificates. The Trustee, at all times until the payment of the principal of all the Trust Certificates, shall keep an agency in the Borough of Manhattan in the City of New York, where the Trust Certificates and dividend warrants may be presented for payment.

SECTION 4. The Trustee assumes no liability for anything other than its own wilful misconduct or gross neglect. It shall be required to undertake no act or duty in the way of taking care of or taking possession of the Trust Equipment until fully secured against all liability. No duty of

insurance or of repairs or of protection of any of the trust property is incumbent upon it, nor shall it be responsible for the filing or recording of this Agreement or of said Lease; and the Trustee may issue and deliver Trust Certificates in advance of such filing or recording.

SECTION 5. The Trustee shall be under no obligation to take any action for the execution or enforcement of any of the trusts hereby created unless requested thereunto in writing by the holders of not less than 25% of the principal amount of the then outstanding Trust Certificates and upon being satisfactorily indemnified against expense and liability with respect thereto, and also furnished with proof satisfactory to it as to the ownership of the Trust Certificates and warrants in respect of which any notice or request may be made; but neither any such request nor this provision therefor shall affect any discretion herein elsewhere specifically given to the Trustee to determine what action it shall take in respect of any such default, or to take action without request.

SECTION 6. No holder of any Trust Certificate or dividend warrant issued hereunder shall have any right to institute any suit, action or proceeding for the execution and enforcement of the trust hereby created unless, after the aforesaid request in writing by the holders of not less than 25% of the principal amount of the then outstanding Trust Certificates shall have been made upon the Trustee, indemnity satisfactory to it provided, and a reasonable time elapsed for action by the Trustee upon such request, it shall decline to institute any proceedings pursuant thereto.

Neither the provisions of this section nor the provisions of Section 5 of this Article V shall affect or limit in any way the obligations of the Company or the rights of holders of Trust Certificates under said guaranty.

SECTION 7. The Trustee may, for all purposes, conclusively assume that the Company is not in default under the terms hereof until notified in writing to the contrary by the holders of at least 10% of the principal amount of the Trust Certificates then outstanding, which notice shall distinctly specify the default desired to be brought to the attention of the Trustee.

SECTION 8. The Trustee shall not incur any liability to anybody in acting upon any notice, consent, order, certificate, warrant or other paper or instrument believed by it to be genuine or authentic, and to be signed by the proper party or parties.

SECTION 9. Any moneys at any time held by the Trustee, hereunder or under said Lease, shall, until paid out by the Trustee as herein or therein provided, be deposited to the credit of the Trustee in accordance with Section 2 of Article I hereof, or be held by it in trust for the benefit of the holders of the Trust Certificates. The Trustee will allow interest upon any such moneys held by it in trust at the rate generally prevailing among Philadelphia trust companies or allowed by it upon deposits of a similar character, or allowed by any designated depositary for said moneys.

At any time, and from time to time, if at the time there shall be no default under the terms of said Lease or of this Agreement, or of any supplemental lease or supplemental agreement, the Trustee, on request of the Company, shall apply Deposited Cash held by it applicable to the cost of any or all units of Trust Equipment which shall not have been transferred and delivered to the Trustee, to the investment in such bonds, notes or other direct obligations of the United States (herein and in said Lease called Government Securities), and at such prices, including any premium and accrued interest, as shall be set forth in a

request by the Company, such Government Securities to be held by the Trustee in trust for the benefit of the holders of the Trust Certificates.

The Trustee shall, on request of the Company, or the Trustee may, in the event funds are required for payment to or upon the order of the Vendors against delivery of equipment, sell such Government Securities, or any portion thereof, and apply the proceeds (including accrued interest paid from Deposited Cash at the time of purchase) as Deposited Cash to the cost of units of Trust Equipment in compliance with the terms of this Agreement.

The Trustee shall restore to Deposited Cash, out of rent received by it for that purpose, under the provisions of subdivision (c) of Article First of said Lease, any expenses incurred in connection with any purchase or sale of such Government Securities, and also an amount equal to any loss of principal incident to the sale of any such investment in Government Securities for a sum less than the amount paid therefor out of Deposited Cash, including any premium and accrued interest. The Company, if not in default under the terms of said Lease or of this Agreement, or of any supplemental lease or supplemental agreement, shall be entitled to receive any profit which may be realized from any sale by the Trustee of such Government Securities or any portion thereof.

Any interest allowed or received by the Trustee upon moneys received by it under the provisions of this Agreement and any interest received upon investments made by the Trustee on request of the Company as aforesaid (in excess of accrued interest paid from Deposited Cash at the time of purchase) shall, so long as there shall be no default on the part of the Company hereunder or under said Lease, be paid to the Company by the Trustee.

Any request made pursuant to the provisions of this Section shall be in writing and signed by the President or any Vice-President and the Treasurer or any Assistant Treasurer of the Company.

SECTION 10. The Trustee shall, at least once in each year, render to the Company a statement of its said trust and of the accounts relating thereto, and covering such matters as the Company may properly require, and the Vendors and the Company or either of them, may from time to time examine the books and accounts of the Trustee relating to said Trust Certificates and Lease, to this Agreement and to the acts of the Trustee hereunder.

SECTION 11. The Trustee may resign and be discharged from the trusts created by this Agreement by giving to the Company and to the holders of the Trust Certificates then outstanding notice in writing of such resignation, specifying a date when such resignation shall take effect. Such notice may be given to the holders of the Trust Certificates by publication of the notice at least once in each of three successive calendar weeks prior to the date specified in such notice in a daily newspaper published in the Borough of Manhattan, in the City of New York, and in a daily newspaper published in the City of Philadelphia, Pennsylvania. Such resignation shall take effect on the date specified in such notice (which date shall not be less than thirty days after the giving or first publication of such notice), unless previously a successor trustee shall be appointed as hereinafter provided, in which event such resignation shall take effect immediately upon the appointment of such successor trustee.

Any trustee hereunder may be removed at any time by an instrument in writing filed with the Trustee and executed by the holders of a majority in principal amount of the Trust Certificates at the time outstanding.

SECTION 12. In case at any time the Trustee shall resign or shall be removed or otherwise shall become incapable of acting, a successor may be appointed by the holders of a majority in principal amount of the Trust Certificates at the time outstanding, by an instrument or concurrent instruments signed by such Certificate holders or their attorneys in fact duly authorized; but until a new trustee shall be appointed by said Certificate holders as herein authorized, the Company, by an instrument executed under its corporate seal, may appoint a trustee to fill such vacancy. Every such successor trustee, whether appointed by the Certificate holders or by the Company, shall always be a trust company or bank having power so to act and organized under the laws of the United States of America, the Commonwealth of Pennsylvania or the State of New York and having an office either in the City of Philadelphia or in the Borough of Manhattan, City of New York, and having a capital and surplus aggregating at least two million dollars. After any such appointment by the Company, it shall cause notice of such appointment to be published once a week in each of four successive weeks in a daily newspaper published in the Borough of Manhattan in the City of New York, and in a daily newspaper published in the City of Philadelphia, Pennsylvania; but 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 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 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 be a corporation organized under the laws of the United States of America, the Commonwealth of Pennsylvania or the State of New York shall do business in the City of Philadelphia, Pennsylvania, or in the Borough of Manhattan in the City of New York, and have a capital and surplus aggregating at least two million dollars, shall be the 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 VI.

No recourse under any obligation, covenant or agreement of this Agreement, or of 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, and that any and all 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.

ARTICLE VII.

Any request or other instrument required by this Agreement to be signed or executed by holders of Trust Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such Certificate 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 Commonwealth of Pennsylvania or the State of New York, acknowledgments of deeds to be recorded in either of said States, 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;

(b) the amount of Trust Certificates held by any person executing any such request or other instrument as a Certificate holder, and 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 unless and until it receives proof satisfactory to it to the contrary.

ARTICLE VIII.

At the termination of said Lease to the Company, any moneys remaining in the hands of the Trustee, after paying the principal of and dividends upon the Trust Certificates, and the expenses of the Trustee, including its reasonable compensation, shall be paid to the Company.

ARTICLE IX.

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 the holders of the Trust Certificates and ap-

purtenant dividend warrants, any right, remedy or claim, under or by reason of this Agreement, or of any term, covenant or condition thereof, and all of the terms, covenants, conditions, promises and agreements in this Agreement contained shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Trust Certificates and dividend warrants.

ARTICLE X.

The term "Trustee" as used herein and in said Lease shall be held and construed to mean The Pennsylvania Company for Banking and Trusts, its successors and assigns; the word "Company" herein, to mean and include the party of the third part, its successors and assigns; and the words "Certificate holder" and "holder" shall include the plural as well as the singular number. The term "Trust Equipment" wherever used herein or in said Lease, unless otherwise indicated by the context, is intended to include all railroad equipment at any time covered by said Lease or any supplemental lease or this Agreement or required or intended so to be.

In case of the death of either of the Vendors the other Vendor shall have and discharge all the powers of the Vendors. In case of the death or inability to act of both of the Vendors, the Trustee shall receive and distribute or pay for the account of the original Vendors, to the parties entitled to receive the same from the original Vendors, all Trust Certificates issuable or Deposited Cash or other moneys payable to the original Vendors by the Trustee hereunder. Any action taken by either of the Vendors shall have the same force and effect as if taken by both of them.

Whenever, under the provisions hereof, it is necessary or proper for any notice or demand to be made to or upon

the Company, or if at any time it is desired to give any such notice or make any such demand, such notice or demand may be given or made to the Company by depositing a written statement thereof, securely enclosed in a postpaid wrapper, in the United States mail, directed to the Company at Chicago, Illinois, and an affidavit by any person representing or acting on behalf of the Trustee as to such mailing shall be conclusive evidence of the giving of such notice and the making of such demand.

This Agreement shall be simultaneously executed in twenty-five 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.

The Pennsylvania Company for Banking and Trusts doth hereby constitute and appoint Wm. M. David to be its attorney for it, and in its name and as and for its corporate act and deed to acknowledge this Agreement, before any person having authority by the laws of the Commonwealth of Pennsylvania or elsewhere to take such acknowledgment, to the intent that the same may be duly recorded.

Illinois Central Railroad Company doth hereby constitute and appoint R. E. Connolly to be its attorney for it, and in its name and as and for its corporate act and deed to acknowledge this Agreement, before any person having authority by the laws of the Commonwealth of Pennsylvania or elsewhere to take such acknowledgment, to the intent that the same may be duly recorded.

IN WITNESS WHEREOF the parties of the first part have hereunto set their hands and seals, and the parties of the second and third parts have caused their names to be signed hereto by their respective officers thereunto duly authorized and their respective corporate seals to be hereto

affixed, duly attested, as of the day and year first above written.

_____ [L. S.]

_____ [L. S.]

Witnesses:

_____

_____

THE PENNSYLVANIA COMPANY FOR BANKING AND TRUSTS,

By _____

Vice-President.

Attest: _____

Assistant Secretary.

Signed, sealed and delivered by The Pennsylvania Company for Banking and Trusts, in the presence of:

_____

_____

ILLINOIS CENTRAL RAILROAD COMPANY,

By _____

Vice-President.

Attest: _____

Assistant Secretary.

Signed, sealed and delivered by Illinois Central Railroad Company in the presence of:

_____

_____

UNITED STATES OF AMERICA,
STATE OF NEW YORK,
COUNTY OF NEW YORK. } ss.

I, JOHN M. BOYCE, a notary public in and for the County of New York, State of New York, do hereby certify and be it remembered that the above-annexed and foregoing instrument of writing between George Smith and H. J. Wylie, The Pennsylvania Company for Banking and Trusts, and Illinois Central Railroad Company, was produced to me in my county by the parties on this 21st day of August, 1947; and that this day at the same time before me the undersigned a notary public duly commissioned and qualified within and for the county aforesaid personally and in person came and appeared the above and within-named George Smith and H. J. Wylie, the Vendors, with each of whom I am personally acquainted, and who are to me known and personally known to me to be the same identical individuals described and named in, and whose names are signed, subscribed and affixed to, and who executed the above-annexed and foregoing instrument as the parties of the first part, and they severally signed said instrument before me and in the presence of the two subscribing legal witnesses, and severally acknowledged in the presence of said witnesses that, being informed of the contents of said instrument, they executed, signed, sealed and delivered said instrument, as and to be their free and voluntary acts and deeds for the uses and purposes therein contained, mentioned and set forth, and severally desired the same to be recorded as such.

And I, the said notary public in and for the County of New York, State of New York, do hereby further certify and be it remembered that this day at the same time be-

fore me, the undersigned, a notary public duly commissioned and qualified within and for the county aforesaid, personally and in person came and appeared the above and within-named Wm. M. David, a Vice-President of the above-named The Pennsylvania Company for Banking and Trusts, a corporation duly organized, incorporated and existing under and by the laws of the Commonwealth of Pennsylvania, and Robert H. Tice, an Assistant Secretary of said The Pennsylvania Company for Banking and Trusts, one of the corporations described in and that executed the within instrument, with each of whom I am personally acquainted, and who are to me known and personally known to me to be the same identical persons whose names are affixed, signed and subscribed to said instrument and whose names are signed to the foregoing instrument as such a Vice-President and an Assistant Secretary, respectively, as having executed the same, and who are personally known to me to be such a Vice-President and an Assistant Secretary, officers of the corporation described in the within instrument, having authority to execute such instrument, 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 The Pennsylvania Company for Banking and Trusts, a corporation party thereunto, to be the act and deed of said corporation by them as a Vice-President and an Assistant Secretary, respectively, and the said Robert H. Tice, as an Assistant Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument; and furthermore, they severally upon oath acknowledged themselves before me and in the presence of said witnesses to be a Vice-President

and an Assistant Secretary, respectively, of said corporation, the within-named party of the second part, and further severally acknowledged to me the execution of the said foregoing instrument on behalf of said corporation, and they severally acknowledged the execution of the same to be the act and deed of said corporation, that such corporation executed the same and that being informed of the contents of the instrument they as such a Vice-President and an Assistant Secretary, respectively, with full authority as such officers and being authorized so to do, executed, signed, sealed and delivered the same with full authority on the day mentioned and 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 acts and deeds as such a Vice-President and an Assistant Secretary, respectively, for the consideration, uses and purposes therein set forth.

And at the same time the said Wm. M. David, being by me duly sworn, did depose and say that he resides in the City of Philadelphia, in the County of Philadelphia, Commonwealth of Pennsylvania; that he is a Vice-President of said The Pennsylvania Company for Banking and Trusts, one of the corporations described in and which executed the above instrument; that he knows 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 order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order and he acknowledged said instrument to be the voluntary act and deed of said corporation.

And I do hereby 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, and have caused said appearers and witnesses to sign this acknowledgment.

John M Boyce

Notary Public.

I am not a Stockholder, Director or Officer of the within mentioned Corporation.

John M Boyce

Notary Public.

Appearers:

Wm M Baird

Robert E Connolly

E F Smith

A B Huttig

JOHN M. BOYCE
Notary Public, State of New York
Residing in New York County
N.Y. Co. Clk's No. 153. Reg. No. 3393 B 9
Kings Co. Clk's No. 39. Reg. No. 4[illegible]-B-9
Queens Co. Clk's No. [illegible] Reg. No. [illegible] 9
Bronx Co. Clk's No. 32. Reg. No. 227-B-9
Richmond Co. Clk's No. 2-B
Commission Expires March 30, 1948

Witnesses:

W B Geddes

E F Hunter

UNITED STATES OF AMERICA,
STATE OF NEW YORK,
COUNTY OF NEW YORK. } ss.

I, JOHN M. BOYCE, a notary public in and for the County of New York, State of New York, do hereby certify and be it remembered that the above-annexed and foregoing instrument, of writing between George Smith and H. J. Wylie, The Pennsylvania Company for Banking and Trusts, and Illinois Central Railroad Company, was produced to me in my County by the parties on this 21st day of August, 1947, and that this day before me, the undersigned, a notary public duly commissioned and qualified within and for the county aforesaid personally and in person came and appeared the above and within-named R. E. Connolly, a Vice-President of the above-named Illinois Central Railroad Company, a corporation duly organized, incorporated and existing under and by the laws of the State of Illinois, and A. B. Huttig, an Assistant Secretary of said Illinois Central Railroad Company, one of the corporations described in and that executed the within instrument, with each of whom I am personally acquainted, and who are to me known and personally known to me to be the same identical persons whose names are affixed, signed and subscribed to said instrument and whose names are signed to the foregoing instrument as such Vice-President and Assistant Secretary, respectively, as having executed the same, and who are personally known to me to be such Vice-President and Assistant Secretary, officers of the corporation described in the within instrument having authority to execute such instrument, 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 a Vice-President and an Assistant Secretary, respectively, of said Illinois Central Railroad Company, a corporation party thereunto, to be the act and deed of said corporation by them as a Vice-President and an Assistant Secretary, respectively, and the said A. B. Huttig, as an Assistant Secretary of said corporation, attested and proved before me the seal of said corporation as affixed to said instrument, and furthermore they severally upon oath acknowledged themselves before me and in the presence of said witnesses to be a Vice-President and an Assistant Secretary, respectively, of said corporation, the within-named party of the third part, and further severally acknowledged to me the execution of the said foregoing instrument on behalf of said corporation, and they severally acknowledged the execution of the same to be the act and deed of said corporation, that such corporation executed the same and that being informed of the contents of the instrument they, as such a Vice-President and an Assistant Secretary, respectively, with full authority as such officers and 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 acts and deeds as such a Vice-President and an Assistant Secretary, respectively, for the consideration, uses and purposes therein set forth.

And at the same time the said R. E. Connolly, being by me duly sworn, did depose and say that he resides in Flossmoor, in the County of Cook, State of Illinois, that he is a Vice-President of said Illinois Central Railroad Company, one of the corporations described in and which executed the above instrument; that he knows 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 order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order and he acknowledged said instrument to be the voluntary act and deed of said corporation.

And I do hereby 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, and have caused said appearers and witnesses to sign this acknowledgment.

John M Boyce

Notary Public.

I am not a Stockholder, Director or Officer of the within mentioned Corporation.

John M Boyce

Notary Public.

Appearers:

R E Connolly

A B Huttig

JOHN M. BOYCE
Notary Public, State of New York
Residing in New York County
N.Y. Co. Clk's No. 153. Reg. No. 3[illegible] B 9
Kings Co. Clk's No. 39. Reg. No. [illegible]-B-9
Queens Co. Clk's No. [illegible] Reg. No. [illegible]
Bronx Co. Clk's No. 32. Reg. No. [illegible]
Richmond Co. Clk's No. 2-B
Commission Expires March 30, 1948

Witnesses:

W B Geddes

E F Hunter

ized or directed by Buyer, and are more particularly described as follows:

Number of Units	*Description of Cars*	*Estimated Total Cost Per Unit*	*Serial Road Numbers (both inclusive)*
250	42-foot 80,000-pound capacity steel-sheathed wood-lined standard 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.	$7,793	91,000 to 91,249

Seller will deliver the cars from time to time, as completed, on the tracks of the Buyer at Portland, Oregon, 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 Renton, Washington, to said point of delivery. Seller estimates that all of the said cars will be completed and shipped in time for delivery to Buyer on or before November 1, 1947.

Buyer shall inspect said cars during the construction thereof at Seller's shops where such cars are being constructed. On completion of each lot of said cars Buyer 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. Upon delivery of each of said cars, (at Portland, Oregon as provided herein) 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 each such certificate has been delivered to and accepted on its behalf by such agent or agents.

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 May 28, 1946, and agreed amendments thereof. The aggregate purchase price for all of said cars, estimated to amount to the sum of $1,948,250, exclusive of interest, insurance and all other charges, shall be payable by the Buyer to the Seller at the office of its Treasurer at Renton, Washington, or at such bank or trust company in the United States 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 $6,000.

(b) Upon completion of delivery of all the cars, an amount equal to the excess of the purchase price of all the cars as finally determined, in accordance with Seller's written proposal and agreed amendments thereof, over the sum of $1,948,250.

(c) The sum of $1,500,000, together with interest at the rate of 1.75 per cent from August 15, 1947, on the balances thereof from time to time remaining unpaid, in ninety-six (96) equal monthly installments of $16,755.63 each on the fifteenth day of each month, commencing September 15, 1947. 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 $1,500,000 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	Sept. 15, 1947	$16,755.63	$2,187.50	$14,568.13	$1,485,431.87
2	Oct. 15, 1947	16,755.63	2,166.25	14,589.38	1,470,842.49
3	Nov. 15, 1947	16,755.63	2,144.97	14,610.66	1,456,231.83
4	Dec. 15, 1947	16,755.63	2,123.67	14,631.96	1,441,599.87
5	Jan. 15, 1948	16,755.63	2,102.33	14,653.30	1,426,946.57
6	Feb. 15, 1948	16,755.63	2,080.96	14,674.67	1,412,271.90
7	Mch. 15, 1948	16,755.63	2,059.56	14,696.07	1,397,575.83
8	Apr. 15, 1948	16,755.63	2,038.13	14,717.50	1,382,858.33
9	May 15, 1948	16,755.63	2,016.66	14,738.97	1,368,119.36
10	June 15, 1948	16,755.63	1,995.17	14,760.46	1,353,358.90
11	July 15, 1948	16,755.63	1,973.64	14,781.99	1,338,576.91
12	Aug. 15, 1948	16,755.63	1,952.09	14,803.54	1,323,773.37
13	Sept. 15, 1948	16,755.63	1,930.50	14,825.13	1,308,948.24
14	Oct. 15, 1948	16,755.63	1,908.88	14,846.75	1,294,101.49
15	Nov. 15, 1948	16,755.63	1,887.23	14,868.40	1,279,233.09
16	Dec. 15, 1948	16,755.63	1,865.54	14,890.09	1,264,343.00
17	Jan. 15, 1949	16,755.63	1,843.83	14,911.80	1,249,431.20
18	Feb. 15, 1949	16,755.63	1,822.06	14,933.55	1,234,497.65
19	Mch. 15, 1949	16,755.63	1,800.31	14,955.32	1,219,542.33
20	Apr. 15, 1949	16,755.63	1,778.50	14,977.13	1,204,565.20
21	May 15, 1949	16,755.63	1,756.65	14,998.98	1,189,566.22
22	June 15, 1949	16,755.63	1,734.78	15,020.85	1,174,545.37
23	July 15, 1949	16,755.63	1,712.87	15,042.76	1,159,502.61
24	Aug. 15, 1949	16,755.63	1,690.94	15,064.69	1,144,437.92
25	Sept. 15, 1949	16,755.63	1,668.97	15,086.66	1,129,351.26
26	Oct. 15, 1949	16,755.63	1,646.97	15,108.66	1,114,242.60
27	Nov. 15, 1949	16,755.63	1,624.93	15,130.70	1,099,111.90
28	Dec. 15, 1949	16,755.63	1,602.87	15,152.76	1,083,959.14
29	Jan. 15, 1950	16,755.63	1,580.77	15,174.86	1,068,784.28
30	Feb. 15, 1950	16,755.63	1,558.64	15,196.99	1,053,587.29
31	Mch. 15, 1950	16,755.63	1,536.48	15,219.15	1,038,368.14
32	Apr. 15, 1950	16,755.63	1,514.28	15,241.35	1,023,126.79
33	May 15, 1950	16,755.63	1,492.05	15,263.58	1,007,863.21

Payment No.	Due	Monthly Installment	Interest	Applied on Principal	Balance Due
34	June 15, 1950	16,755.63	1,469.80	15,285.83	992,577.38
35	July 15, 1950	16,755.63	1,447.50	15,308.13	977,269.25
36	Aug. 15, 1950	16,755.63	1,425.18	15,330.45	961,938.80
37	Sept. 15, 1950	16,755.63	1,402.82	15,352.81	946,585.99
38	Oct. 15, 1950	16,755.63	1,380.43	15,375.20	931,210.79
39	Nov. 15, 1950	16,755.63	1,358.01	15,397.62	915,813.17
40	Dec. 15, 1950	16,755.63	1,335.56	15,420.07	900,393.10
41	Jan. 15, 1951	16,755.63	1,313.07	15,442.56	884,950.54
42	Feb. 15, 1951	16,755.63	1,290.55	15,465.08	869,485.46
43	Mch. 15, 1951	16,755.63	1,267.99	15,487.64	853,997.82
44	Apr. 15, 1951	16,755.63	1,245.41	15,510.22	838,487.60
45	May 15, 1951	16,755.63	1,222.79	15,532.84	822,954.76
46	June 15, 1951	16,755.63	1,200.14	15,555.49	807,399.27
47	July 15, 1951	16,755.63	1,177.45	15,578.18	791,821.09
48	Aug. 15, 1951	16,755.63	1,154.74	15,600.89	776,220.20
49	Sept. 15, 1951	16,755.63	1,131.98	15,623.65	760,596.55
50	Oct. 15, 1951	16,755.63	1,109.20	15,646.43	744,950.12
51	Nov. 15, 1951	16,755.63	1,086.38	15,669.25	729,280.87
52	Dec. 15, 1951	16,755.63	1,063.53	15,692.10	713,588.77
53	Jan. 15, 1952	16,755.63	1,040.65	15,714.98	697,873.79
54	Feb. 15, 1952	16,755.63	1,017.73	15,737.90	682,135.89
55	Mch. 15, 1952	16,755.63	994.79	15,760.85	666,375.04
56	Apr. 15, 1952	16,755.63	971.79	15,783.84	650,591.20
57	May 15, 1952	16,755.63	948.77	15,806.86	634,784.34
58	June 15, 1952	16,755.63	925.72	15,829.91	618,954.43
59	July 15, 1952	16,755.63	902.64	15,852.99	603,101.44
60	Aug. 15, 1952	16,755.63	879.52	15,876.11	587,225.33
61	Sept. 15, 1952	16,755.63	856.36	15,899.27	571,326.06
62	Oct. 15, 1952	16,755.63	833.18	15,922.45	555,403.61
63	Nov. 15, 1952	16,755.63	809.96	15,945.67	539,457.94
64	Dec. 15, 1952	16,755.63	786.70	15,968.93	523,489.01
65	Jan. 15, 1953	16,755.63	763.42	15,992.21	507,496.80
66	Feb. 15, 1953	16,755.63	740.10	16,015.53	491,481.27
67	Mch. 15, 1953	16,755.63	716.74	16,038.89	475,442.38
68	Apr. 15, 1953	16,755.63	693.35	16,062.28	459,380.10
69	May 15, 1953	16,755.63	669.92	16,085.71	443,294.39
70	June 15, 1953	16,755.63	646.47	16,109.16	427,185.23
71	July 15, 1953	16,755.63	622.97	16,132.66	411,052.57
72	Aug. 15, 1953	16,755.63	599.45	16,156.18	394,896.39
73	Sept. 15, 1953	16,755.63	575.88	16,179.75	378,716.64
74	Oct. 15, 1953	16,755.63	552.29	16,203.34	362,513.30
75	Nov. 15, 1953	16,755.63	528.66	16,226.97	346,286.33
76	Dec. 15, 1953	16,755.63	505.00	16,250.63	330,035.70
77	Jan. 15, 1954	16,755.63	481.30	16,274.33	313,761.37
78	Feb. 15, 1954	16,755.63	457.56	16,298.07	297,463.30
79	Mch. 15, 1954	16,755.63	433.80	16,321.83	281,141.47
80	Apr. 15, 1954	16,755.63	409.99	16,345.64	264,795.83
81	May 15, 1954	16,755.63	386.16	16,369.47	248,426.36
82	June 15, 1954	16,755.63	362.28	16,393.35	232,033.01
83	July 15, 1954	16,755.63	338.38	16,417.25	215,615.76
84	Aug. 15, 1954	16,755.63	314.43	16,441.20	199,174.56
85	Sept. 15, 1954	16,755.63	290.46	16,465.17	182,709.39
86	Oct. 15, 1954	16,755.63	266.45	16,489.18	166,220.21
87	Nov. 15, 1954	16,755.63	242.40	16,513.23	149,706.98
88	Dec. 15, 1954	16,755.63	218.32	16,537.31	133,169.67
89	Jan. 15, 1955	16,755.63	194.20	16,561.43	116,608.24
90	Feb. 15, 1955	16,755.63	170.05	16,585.58	100,022.66
91	Mch. 15, 1955	16,755.63	145.86	16,609.77	83,412.89
92	Apr. 15, 1955	16,755.63	121.64	16,633.99	66,778.90
93	May 15, 1955	16,755.63	97.38	16,658.25	50,120.65
94	June 15, 1955	16,755.63	73.09	16,682.54	33,438.11
95	July 15, 1955	16,755.63	48.76	16,706.87	16,731.24
96	Aug. 15, 1955	16,755.63	24.39	16,731.24	

The obligation of the Buyer to make the payments in accordance with the provisions of this subparagraph (c) in 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 such payments by the Buyer shall be free of expense 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 or excess profits taxes) levied or imposed upon this agreement or upon any sale, payment, shipment, or delivery under the terms hereof, all of which expense 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 ap-

propriate 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. Before delivery of each of said cars to Seller, Pacific Car and Foundry Company shall fasten upon each side of each car a metal plate bearing words in letters not less than one inch in height indicating ownership by the Seller or otherwise plainly, distinctly, permanently and conspicuously mark upon each side of each car words indicating such ownership. In the event of a transfer or assignment by Seller of the title to the cars or any of them before or contemporaneously with the delivery thereof, Seller will fasten such ownership plates or marks on each car in the manner described indicating the name of the assignee as owner in lieu of the name of the Seller if requested to do so by assignee. Such plates or marks shall be so located as to be readily visible and to indicate plainly Seller's or assignee's ownership of said cars. In case, at any time before all moneys due or to become due by Buyer under this agreement shall have been paid in full, such plates or marks shall at any time be removed, defaced or destroyed, Buyer shall immediately, at its own cost, cause the same to be 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 the Seller or assignee, Buyer shall provide and install and thereafter maintain the same on all such cars, and the Buyer agrees that it will not place any of said cars in opera-

tion or exercise any control or dominion over the same until said metal plates or markings 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 1.75 per cent 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 Seller's rights hereunder in respect thereof, the Buyer shall, whenever requested by such vendee, transferee or assignee, change the name plates or markings, 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: "Northern Pacific Railway", "Northern Pacific", "N. P. Ry. Co." or some other 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 owned, leased, jointly used, or operated by the Buyer or companies affiliated with Buyer or upon those of any railroad company, a majority of whose capital stock is at the time owned or controlled by the Buyer in the states of Wisconsin, Minnesota, North Dakota, Montana, Idaho, Washington and Oregon, or upon connecting and other railroads in the usual interchange of traffic.

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. The Seller, 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, judg-

ments, 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 shall indemnify and save harmless the Seller against all claims, suits, actions or other proceedings, and against all expenses incurred and judgments entered into or as a result of such actions arising in any way out of the alleged infringement of patents by reason of the use of or incorporation in said cars of 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 Seller'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 Seller.

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 hereunder 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, Pacific Car and Foundry 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 as-

signor 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.

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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 provisions 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.

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(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 Renton, Washington, 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 remedy, or shall be construed to be a waiver of any defaults, or any acquiescence 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 attorneys' fees, incident to the collection thereof (which costs, expenses, and attorneys' 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 thirty (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 thirty (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 the 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 thirty (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 reserved 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;

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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 reorganisation 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.

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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 respective corporate seals to be hereunto affixed, duly attested, as of the day and year first above written.

PACIFIC CAR AND FOUNDRY COMPANY, Seller

By Ferdinand Schmitz Jr.
Vice President

Attest:

D. E. Douglas
Assistant Secretary

Signed, sealed and delivered as to Pacific Car and Foundry Company, in the presence of:

W. W. Scandrett

Lester Leeman

NORTHERN PACIFIC RAILWAY COMPANY, Buyer

By B. W. Scandrett
Vice President

Attest:

Hugh McLeod
Assistant Secretary

Signed, sealed and delivered as to Northern Pacific Railway Company, in the presence of:

Beatrice J. Nachtrieb

Josephine M. Koch

STATE OF WASHINGTON,
County of King.—ss.

I, Orpha M. Dalbotten, 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 22nd day of August, 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, Ferdinand Schmitz, Jr., and D. E. Douglas, each to me personally known and known to be respectively a Vice President and the Assistant Secretary of Pacific Car and Foundry 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 Ferdinand Schmitz, Jr, and D. E. Douglas, 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 Ferdinand Schmitz, Jr. resides in the City of Seattle in the State of Washington and that the said D. E. Douglas resides in the City of Seattle in the State of Washington; that the said Ferdinand Schmitz, Jr., is a Vice President, and said D. E. Douglas is the Assistant Secretary of Pacific Car and Foundry Company, one of the corporations described in and which executed the within and

foregoing instrument in writing; that they, the said Ferdinand Schmitz, Jr. and D. E. Douglas, 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 King, State of Washington, this the day and year in this my certificate first above written.

Orpha M. Dalbotten.

STATE OF MINNESOTA,
County of Ramsey.—ss.

I, G. 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 acknowledgments and proofs of deeds and conveyances of land, tenements, and hereditaments in said County, DO HEREBY CERTIFY that on this 13th day of August, 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, B. W. Scandrett and Hugh McLeod, each to me personally known and known 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 the said B. W. Scandrett is a Vice President and the said Hugh McLeod is Assistant Secretary of Northern Pacific Railway Company, one of the corporations described in and which executed the within and foregoing in-

ASSIGNMENT AGREEMENT

DATED AS OF AUGUST 15, 1947

BETWEEN

PACIFIC CAR AND FOUNDRY COMPANY

AND

SEATTLE-FIRST NATIONAL BANK

ASSIGNMENT AGREEMENT dated as of August 15, 1947, between PACIFIC CAR AND FOUNDRY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Washington, with its principal place of business in the City of Renton, Washington (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 15, 1947, covering construction, sale and delivery of two hundred fifty (250) forty-two (42) foot eight thousand (80,000) pound capacity steel-sheathed wood-lined standard refrigerator cars, more particularly described as follows:

Number of Units	Description of Cars	Serial Road Numbers (both inclusive)
250	42-foot 80,000-pound capacity steel-sheathed wood-lined standard refrigerator cars (high tensile steel design), Class R-40-33, with 80,000-pound capacity trucks, convertible ice tanks, air circulating fans and one-way wrought steel wheels, Estimated total cost per unit $37,793	to

for the aggregate price of approximately $1,948,250, determined on the basis of the estimated cost per unit above set

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sturument in writing; that they, the said B. W. Beardsett 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 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.

.....

E. T. G. JEMISON, Notary Public, Ramsey Co., Minn.
My Commission Expires Oct. 8, 1950

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 2nd day of
September, D. 19 47 at 4:00
o'clock P.M. and recorded in Vol.
40 of Miscellaneous Records
on page 158 - 159 inc.
Secretary of State

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 said 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 Manufacturer) 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 car under the terms of said Conditional Sale Agreement the sum of Six Thousand Dollars ($6,000.00), so that the entire principal amounts which the Assignee will pay to the Manufacturer hereunder will be One Million Five Hundred Thousand Dollars ($1,500,000.00).

dditional 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 articles, 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.

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 Con-

PACIFIC CAR AND FOUNDRY COMPANY
RENTON, WASH.
MAR 11 1948
PACIFIC COAST TRANSPORTATION COMPANY
SEATTLE, WASH.
MAR 11 1948

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.

PACIFIC CAR AND FOUNDRY COMPANY,

By Ferdinand Schmitz Jr.
Vice President

Attest:

D. E. Douglas
Assistant Secretary

Signed, sealed and delivered as to Pacific Car and Foundry Company, in the presence of:

W. H. Sandidge
Esten Lennan

SEATTLE-FIRST NATIONAL BANK,

By F. H. Brownell
Vice President

Attest: J. H. McClure Cashier

Signed, sealed and delivered as to Seattle-First National Bank in the presence of:

H. Stone
Florence Engstrom

STATE OF WASHINGTON,
County of King.—ss.

I, Orpha M. Dalbotten, 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 22nd day of August, 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, Ferdinand Schmitz, Jr. and D. E. Douglas, each to me personally known and known to me to be respectively a Vice President and Assistant Secretary of Pacific Car and Foundry 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 Ferdinand Schmitz, Jr. and D. E. Douglas 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 Ferdinand Schmitz, Jr. resides in the City of Seattle, in the State of Washington, and that the said D. E. Douglas resides in the City of Seattle, in the State of Washington; and that said Ferdinand Schmitz, Jr. is a Vice President and said D. E. Douglas is an Assistant Secretary of Pacific Car and Foundry Company, one of the corporations described in and which executed the within and foregoing in-

strument in writing; that they, the said Ferdinand Schmitz, Jr. and D. E. Douglas, 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 considerations, 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.

Orpha M. Dalbotten

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 22nd day of August, 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, F. H. Brownwell, Jr. and J. H. McClure, each to me personally known and known to me to be respectively a Vice President and 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 Cashier, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said F. H. Brownwell, Jr. and J. H. McClure, 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. H. Brownwell, Jr. resides in the City of Seattle, in the State of Washington, and that the said J. H. McClure resides in the City of Seattle, in the State of Washington; that said F. H. Brownwell, Jr. is Vice President and said J. H. McClure is 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. H. Brownwell, Jr. and J. H. McClure, 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 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.

E. E. Immenschx

NOTARY PUBLIC STATE OF WASHINGTON

State of Wisconsin } ss.
DEPARTMENT OF STATE }

Received this 2nd day of September A. D. 1947 at 10:00 o'clock A.M. and recorded in Vol. 40 of Railroad Mortgages on page 166 & 165 Inc.

Secretary of State

Executed in 22
Counterparts
Counterpart No 4

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD EQUIPMENT TRUST. SERIES AA

Lease of Railroad Equipment

DATED AS OF OCTOBER 1, 1947.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO

TO

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

Agreement

DATED AS OF OCTOBER 1, 1947.

PAUL B. ROBB AND H. J. GROENER, VENDORS

WITH

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,

AND

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

THE GUNTHORP-WARREN PRINTING COMPANY, 850 WEST JACKSON, CHICAGO

LEASE OF RAILROAD EQUIPMENT, dated as of October 1, 1947, between **CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO**, a corporation duly organized and existing under the laws of the United States of America, Trustee, as hereinafter mentioned (hereinafter called the Trustee), party of the first part, and **CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY**, a corporation duly organized and existing under the laws of the State of Wisconsin (hereinafter called the Railroad Company), party of the second part:

WHEREAS, by certain agreement, dated as of October 1, 1947, between Paul B. Robb and H. J. Groener, Vendors, Continental Illinois National Bank and Trust Company of Chicago, as Trustee, and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a counterpart original whereof is hereto annexed and made a part hereof, there was constituted "Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series AA," and 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 Railroad Company hereunder; and

WHEREAS, pursuant to the provisions of said Agreement, the railroad equipment hereinafter described 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:

That the Trustee, acting in pursuance of said Agreement, for and in consideration as well of the sum of One Dollar to it paid by the Railroad Company at or before the

(Rec'd 23.40)

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ensealing and delivery hereof, the receipt of which is hereby acknowledged, as of the rents and covenants hereinafter mentioned to be paid, kept and performed by the Railroad Company, has let and leased, and does hereby let and lease, to the Railroad Company all the railroad equipment of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series AA (which together with the additional and substituted equipment and replacements as herein and in said Agreement provided are hereinafter and in said Agreement collectively called the Trust Equipment), to wit:

FREIGHT TRAIN CARS.

250 50'6", 50 ton, all steel, automobile cars without loading devices, Nos. 15500 to 15749, inclusive,
500 40'6", 40 ton, all steel, automobile cars equipped with loading devices, Nos. 9000 to 9499, inclusive,

750

together with such additional or substituted railroad equipment as may be acquired for said Trust and subjected to this Lease, as herein and in the Agreement provided.

The cost of all said equipment is estimated by the Railroad Company to be not less than $3,000,000.

In the event that the Vendors shall, as provided in Section 5 of Article I of the Agreement, acquire other new, standard gauge railroad rolling stock in substitution for, or in addition to, the original Trust Equipment above specifically described, such other new, standard gauge railroad rolling stock shall be included as part of the Trust Equipment and shall be subject to all the terms and conditions of this Lease and of the Agreement in all respects as though it had been part of the original Trust Equipment herein described.

As and when the Trust Equipment shall from time to time be transferred and delivered to the Trustee under said Agreement, the same shall be delivered to the Railroad Company, and shall upon such delivery to the Railroad 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 Railroad Company hereunder, in all respects as if the same had been so delivered simultaneously with the execution and delivery hereof.

And the Railroad Company, in consideration of the premises, by these presents covenants and agrees with the Trustee as follows:

First. The cost of the Trust Equipment, whenever used herein or in said Agreement, shall mean the cost of the purchase or construction of the Trust Equipment and shall consist solely of items which may properly be included in such cost under the investment accounting rules of the Interstate Commerce Commission.

The Railroad Company hereby accepts (subject to the conditions mentioned in said Agreement) 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 the Railroad Company covenants and agrees to pay to the Trustee or its assigns (or in the case of taxes to the proper taxing authority) rent hereunder which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable:

(a) From time to time, at or before the delivery of any of the Trust Equipment to the Railroad Company

as advance rental, amounts in cash equal to not less than twenty-five per cent (25%) of the cost of the Trust Equipment so delivered, as certified to the Trustee.

(b) If seventy-five per cent (75%) of the aggregate cost of all of the Trust Equipment which shall then and theretofore have been delivered hereunder shall exceed $2,240,000, an amount in cash as advance rental, which, with all other payments previously made under the foregoing clause (a) and this clause (b), shall equal the difference between $2,240,000 and the aggregate cost of all Trust Equipment which then and theretofore shall have been delivered hereunder as aforesaid.

(c) The necessary and reasonable expenses of the trust, including the proper compensation of the Trustee and its counsel for their services and all expenses and liabilities connected with the Trust Equipment and this Lease thereof.

(d) Any and all taxes, assessments and other governmental charges upon the income or property of the trust, or said Agreement evidencing the same, which the Trustee by law may be required to pay, and any and all taxes, assessments and other governmental charges (other than Federal Income Taxes) which the Railroad Company or the Trustee may be required to pay or to retain from the principal of the Trust Certificates issued as provided in said Agreement (herein called the Trust Certificates) or from the dividends thereon, under any present or future law of the United States of America or any state, county, municipality or other lawful taxing authority therein.

(e) The dividend warrants attached to and the dividends payable on the Trust Certificates when and as the same shall become payable.

(f) The principal of the Trust Certificates when

and as the same shall become 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, interest on such unpaid dividends, dividend warrants and principal at the same rate per annum as provided in the dividend warrants.

(h) If the Trustee shall invest funds of the Trust in United States Government securities, as provided in the Agreement, the amount, if any, by which the selling price of said securities including any accrued interest and premium plus any interest paid to the Trustee on such securities is less than the purchase price thereof including any accrued interest and premium.

The Railroad Company shall not be required, however, to pay any tax, assessment or other governmental charge, so long as the Railroad 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 Trust Certificate holders may be materially endangered.

All rentals payable hereunder shall be payable at the principal office of the Trustee in the City of Chicago, State of Illinois, in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts.

Anything herein contained to the contrary notwithstanding, the Trustee shall, for all purposes of this Lease and said Agreement, accept as the cost of any of the Trust Equipment the respective amounts certified to it pursuant

to, or in like manner as required by subdivision (b) of Section 4 of Article I of said Agreement. In case any certificate furnished pursuant to said subdivision (b) of said Section 4 or of this Lease shall state that the cost of the equipment therein referred to is tentatively determined subject to final adjustment, such certificate shall nevertheless be accepted and acted upon, pending adjustment.

Second. This Lease shall continue in force until the rent so paid hereunder shall furnish moneys sufficient to meet, discharge and cancel all the interests in said Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series AA, created in respect of the Trust Equipment, and the dividends thereon, as well as the other payments and charges aforesaid. At the termination of this Lease and after all such payments required hereby shall have been completed and fully made to the Trustee, the Trust Equipment hereby leased, whether the same shall be delivered to the Railroad Company simultaneously with or after the execution hereof, shall at the option of the Railroad Company be assigned and transferred by the Trustee to the Railroad Company or its nominee or nominees and shall thereupon be and become the absolute property of the Railroad 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 Railroad Company but title to and ownership of all the Trust Equipment shall be reserved to and remain in the Trustee, notwithstanding the delivery of the Trust Equipment to, and the possession and use thereof by, the Railroad Company.

Third. Upon the written request of the Railroad Company, signed by the President or the Vice-President

and Comptroller of the Railroad Company, stating that the use of any of the Trust Equipment, by reason of its character or the business of the Railroad Company, is no longer profitable to, or required by the Railroad Company, the Trustee may, in its sole discretion, while the Railroad Company is not in default hereunder, execute and deliver a bill of sale assigning and transferring to a purchaser or purchasers found by the Railroad Company the absolute title to such of the Trust Equipment; provided, however, that none of the Trust Equipment shall be so assigned or transferred unless simultaneously with the delivery of such bill of sale the Trustee shall receive from such purchaser or purchasers the agreed purchase price thereof and from the Railroad Company a sum in cash equal to the amount, if any, by which the cost determined as herein provided of the Trust Equipment so assigned and transferred, less depreciation, exceeds said purchase price. For all purposes of this Lease and said Agreement, depreciation on the Trust Equipment, or any thereof, shall not exceed an amount equal to $\frac{1}{2}$ of 1 per cent of the cost thereof, determined as herein provided, for each calendar month between the date of delivery of such Trust Equipment to the agent of the Trustee and the date as of which depreciation is to be determined. Simultaneously with the delivery of such written request of the Railroad Company there shall also be delivered to the Trustee a certificate of the President or the Vice-President and Comptroller of the Railroad Company, stating the amount of such agreed purchase price of the Trust Equipment to be assigned and transferred and the amount of such depreciation (not in excess of the amount above stated) accrued upon such Trust Equipment. The sums so paid to the Trustee shall be held by it in trust for the equal and pro-

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portionate benefit of the bearers of the Trust Certificates and dividend warrants, until paid out by the Trustee upon like written request of the Railroad Company for the purchase by the Trustee of new standard gauge railroad rolling stock, free from liens, except the liens, if any, of the First Mortgage and/or of the General Mortgage of the Lessee on such right, title and interest as the Railroad Company may have in or to such rolling stock and which shall be in all respects subordinate to the right, title and interest of the Trustee therein and thereto, and upon the delivery of such new equipment to the Trustee accompanied by a bill or bills of sale, warranty or warranties, an opinion of counsel and a certificate as to delivery and cost in like manner as is provided in Section 4 of Article I of said Agreement. Any new equipment so acquired and substituted shall be marked in accordance with the provisions of Article Fourth hereof and immediately upon being so marked shall be part of the Trust Equipment, subject to all of the terms and conditions hereof and of said Agreement in all respects as though it had been part of the original Trust Equipment herein described, and the Railroad Company and the Trustee shall execute, and the Railroad Company shall file and/or record as required by law, a supplemental lease thereof, describing the same, upon and subject to all the terms and conditions hereof. The term "Trust Equipment," wherever used herein, unless otherwise indicated by the context, is intended to include any new equipment so acquired or otherwise subjected to this Lease or required or intended so to be.

Fourth. At or before delivery to the Railroad Company of the Trust Equipment, or as promptly as reasonably can be done, following the date of this Lease, but in any event not later than one year thereafter, there shall be plainly, distinctly, permanently and conspicuously placed and fastened upon each side of each unit of the Trust Equipment

a metal plate bearing the following words, with appropriate changes thereof or additions thereto as from time to time may be required by law in order to protect the interest of the Trustee, or such words shall be otherwise plainly, distinctly, permanently and conspicuously marked on each side of each thereof, in either case in letters not less than one-half inch in size:

> "Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series AA, Continental Illinois National Bank and Trust Company of Chicago, Trustee, Owner and Lessor."

The Railroad Company will certify to the Trustee, at the time of delivery of the Trust Equipment to the Railroad Company and thereafter, monthly, the numbers of such Trust Equipment which have been so marked and the character of such marking.

Such plate or marks shall be such as to be readily visible and as to indicate plainly the Trustee's ownership of said 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 Railroad Company will immediately cause the same to be restored or replaced. The Railroad Company will not change, or permit to be changed, the numbers upon equipment covered by this Lease (nor any numbers which may be substituted as herein provided), except in accordance with a statement of new numbers to be substituted therefor, which shall previously have been filed with the Trustee by the Railroad Company. In any such case, if the same be feasible, or necessary, the Railroad Company will at its expense cause to be made such notation on or addition to the record of this Lease as may be proper to preserve or protect the record title of the Trustee to such equipment.

The Trust Equipment may be lettered, "Chicago, Milwaukee, St. Paul and Pacific Railroad," "St. Paul," "Mil-

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waukee," "C. M. St. P. & P. R. R.," or in some other appropriate manner, for convenience of identification of the leasehold interest of the Railroad Company, its successor or successors therein, but the Railroad 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 Railroad Company or by any person, association or corporation, other than the Trustee.

Fifth. (a) The Railroad Company, during the continuance of this Lease, will maintain and keep, at its own cost and expense, all of the Trust Equipment in good order and repair (the damage to be made good including, without limitation, damage by collision, fire or explosion), and will replace, at its own cost, any of the Trust Equipment that may be worn out, lost, destroyed or rendered unfit for use, by new standard gauge railroad rolling stock of substantially as good material, construction and of equal value, the value of the new rolling stock to be figured at cost, determined as provided in Article First hereof, if that be below market value, or at market value if that be below such cost. For the purpose of this Article Fifth the value of such replaced equipment shall be taken to be the cost thereof, determined as provided in Article First hereof, less depreciation accrued thereon, computed as provided in Article Third hereof. The title to all rolling stock procured for such replacement shall be taken in the name of the Trustee, free from liens, and such rolling stock shall be marked in accordance with the provisions of Article Fourth hereof. At the time of every such replacement the Railroad Company shall deliver to the Trustee a certificate of the President or the Vice-President and Comptroller or an Assistant Comptroller of the Railroad Company, stating the value of the Trust Equipment so worn out,

lost, destroyed or rendered unfit for use, determined as herein provided, and the cost and the reasonable market value of the equipment with which it is replaced, together with a bill or bills of sale, warranty or warranties, an opinion of counsel and a certificate as to delivery, in like manner as is provided in Section 4 of Article I of said Agreement.

Thereupon, such new equipment shall be deemed a part of the Trust Equipment, subject to all the terms and conditions hereof and of said Agreement, as though it had been originally a part of the Trust Equipment; but the Trustee and the Railroad Company shall execute a supplemental lease thereof, describing the same, upon and subject to all of the terms and conditions hereof.

(b) The Railroad Company will during the continuance of this Lease keep all of the Trust Equipment insured against loss or damage by fire, and against other loss or damage the risk of which is customarily insured against by railroad companies, in such manner and to such proportion of the value thereof as is customarily insured by railroad companies. All of such insurance shall be payable to the Trustee as Trustee, Owner and Lessor and shall be in an insurance company or companies satisfactory to the Trustee. All the insurance premium or premiums shall and will be paid by the Railroad Company, and, in default of the Railroad Company keeping such Trust Equipment so insured, the Trustee without impairment of its rights and remedies by reason of such default may make appropriate insurance from time to time and pay the premium or premiums therefor, but it shall not be required so to do, and in such event the Railroad Company shall and will pay to the Trustee the amount of the premium or premiums so paid, with interest at the rate of 6 per cent per annum from the time of payment. In case the Railroad Company fails to make and maintain such insurance and the Trustee in-

sures the Trust Equipment or any part thereof as above provided, the title to the Trust Equipment shall, notwithstanding the making of all other payments hereunder or under said Agreement to be made by the Railroad Company, remain in the Trustee until the repayment of the amount so paid for insurance with interest from the time of payment, and the repayment of such amount is hereby expressly made one of the obligations to be performed before title to the Trust Equipment shall vest in the Railroad Company.

Any insurance moneys paid to the Trustee on account of any loss in respect of the Trust Equipment covered by insurance shall be held and retained by the Trustee, in trust for the equal and proportionate benefit of the holders of the Trust Certificates and dividend warrants attached thereto, until the replacement or repair, as provided in subdivision (a) of this Article, of the Trust Equipment covered by such insurance. Upon proof satisfactory to the Trustee of the proper replacement or repair of said Trust Equipment, said insurance moneys received by the Trustee shall be applied by the Trustee to the payment of the cost of such replacement or repair or to reimburse the Railroad Company, to the extent of such funds, for payments made by it in respect of such replacement or repair. A certificate in behalf of the Railroad Company by its President or Vice-President and Comptroller or Assistant Comptroller as to the proper replacement or repair of said Trust Equipment, free from lien, shall be full and complete protection to the Trustee.

(c) The Railroad Company covenants and agrees to furnish to the Trustee, whenever required by the Trustee, and at least once in every year during the continuance of this Lease, an accurate statement, signed by the President, or the Vice-President and Comptroller

of the Railroad Company, of the amount, description and numbers of the Trust Equipment then covered hereby, and the amount, description and numbers of all that may have been worn out, lost, destroyed or rendered unfit for use by accident or otherwise, and the number of units of Trust Equipment repaired during the previous year, and the number of units then undergoing repairs and in the shops for repairs, and the repairs needed on any of the Trust Equipment, specifying the Trust Equipment so in need of repair, classifying the repairs so needed according to a standard classification of repairs, in so far as practicable. Together with said statement the Railroad Company shall also furnish to the Trustee a statement signed by its Superintendent Car Department or an Assistant Superintendent Car Department, stating that in the case of all of the Trust Equipment repainted during the preceding year, the marks required by Article Fourth hereof have been preserved, or that the same when repainted has been again marked as required by said Article. The Trustee shall have the right, by its agents, (but shall not be obligated) to inspect the Trust Equipment once in every year during the continuance of this Lease.

(d) The Railroad Company covenants and agrees to indemnify and protect the Trustee in the use of any and all patented inventions employed in and about the Trust Equipment and to comply in all respects with the laws of the United States and of all the states in which the Trust Equipment or any thereof may be operated and with all lawful acts, rules, regulations and orders of the Interstate Commerce Commission and of all other commissions, boards and other legislative, executive or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including, but without limitation, all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or

attachments, air brakes or other appliances; provided, however, that the Railroad Company may in good faith contest the validity of any such act, rule, regulation or order or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not, in the judgment of the Trustee, materially endanger the rights or interests of the Trustee or of the bearers of the Trust Certificates.

Sixth. The Railroad Company, so long as it shall not be in default under this Lease, shall be entitled to the possession of the Trust Equipment and the use thereof upon the lines of railroad owned by it or operated by it under lease or otherwise, or over which it has trackage rights, and upon those of any railroad company a majority of whose capital stock is at the time owned or controlled by the Railroad Company, and also upon connecting and other railroads in the usual interchange of traffic, from and after the delivery of the Trust Equipment by the Trustee to the Railroad Company, but only upon and subject to all the terms and conditions of this Lease.

The Railroad Company will not either assign or transfer this Lease, or transfer or sublet the Trust Equipment or any part thereof, without the written consent of the Trustee first had and obtained; and the Railroad Company shall not, without such written consent, except as hereinbefore provided, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment.

Seventh. In case the Railroad Company

(1) shall make default in the payment of any part of said rent and such default shall continue for more than thirty (30) days after the same shall become due and payable, or

(2) shall make or suffer any unauthorized assign-

ment or transfer of its rights or interest in, or any unauthorized sublease of, or, except as herein authorized, part with the possession of, the Trust Equipment, or any thereof, and shall fail or refuse either to cause such assignment or transfer or sublease to be canceled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within thirty days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said thirty days to deposit with the Trustee a sum in cash equal to the actual cost of the Trust Equipment so assigned or transferred or subleased, or the possession of which shall have been so parted with, as certified to the Trustee pursuant to Section 4 of Article I of said Agreement, (any sum so deposited to be returned to the Railroad Company upon the cancellation of such assignment, transfer or sublease, and the recovery of possession by the Railroad Company of such Trust Equipment in good condition, subject to ordinary usage as certified to the Trustee by the President or the Vice-President and Comptroller or the Assistant Comptroller of the Railroad Company), or

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

then, in any such case (herein and in said Agreement sometimes called events of default) the Trustee may, and upon the request in writing of the bearers of not less than 20 per cent in principal amount of the Trust Certificates at the time outstanding shall, declare this Lease terminated. The election of the Trustee to terminate this Lease under this clause shall have the same effect as the retaking of the Trust Equipment by the Trustee as hereinafter provided. Upon the happening of an event of default, the Trustee may also, by its agents, enter upon the railroads and prem-

ises of the Railroad Company and take possession of all or any part of the Trust Equipment, and withdraw the same from said railroads and premises, retaining all payments which up to that time may have been made on account of rental for the Trust Equipment and otherwise, and shall be entitled to collect, receive and retain all unpaid per diem, mileage or other charges of any kind earned by the Trust Equipment or any thereof, and may lease the Trust Equipment or any part thereof, or sell the same or any part thereof, so far as it may deem necessary or desirable to perform and fulfill the trusts under said Agreement, at public sale, for cash or upon credit, in its discretion, and otherwise proceed to enforce its rights and the rights of the owners of interests under said Agreement and under this Lease in the manner therein and herein provided; and upon such taking possession or withdrawal or lease or sale of the Trust Equipment, the Railroad Company shall cease to have any rights or remedies in respect of the Trust Equipment under this Lease, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Railroad Company; and no payments theretofore made by the Railroad Company for the rent or use of the Trust Equipment, or any of it, shall, in case of the happening of any such event of default and such taking possession, withdrawal, lease or sale by the Trustee, give to the Railroad Company any legal or equitable interest or title in or to the Trust Equipment, or any of it, or any cause or right of action, at law or in equity, in respect of the Trust Equipment against the Trustee or the owner of interests in said Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series AA; and such taking possession or withdrawal or lease or sale of the Trust Equipment by the Trustee shall not be a bar to the recovery by the Trustee from the Railroad Company of rentals then or thereafter due and payable, and the Railroad Company shall be and remain liable for the same, until

such sum shall have been realized as, with the proceeds of the lease or sale of the Trust equipment, shall be sufficient for the discharge and payment in full of all the various items mentioned in subdivision (a), (b), (c), (d), (e), (f), (g) and (h) of Article First hereof, whether they shall have then matured or not.

In case the Trustee shall rightfully demand possession of the Trust Equipment in pursuance of this Lease, and shall reasonably designate a point or points upon the railroad of the Railroad Company, or upon the railroad of any company a majority of whose capital stock is at the time directly or indirectly owned by the Railroad Company, for the delivery of the Trust Equipment to it, the Railroad 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 railroads 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 Railroad Company until the Trustee shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad 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 of equity having jurisdiction in the premises the Trustee shall be entitled to a decree against the Railroad Company requiring the specific performance thereof.

The remedies in this Lease and in said Agreement provided in favor of the Trustee and the holders of Trust Certificates, or any of them, shall not be deemed exclusive,

but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity, and may be exercised from time to time and as often and in such order as may be deemed expedient by the Trustee. No delay or omission of the Trustee in the exercise of any right or power accruing upon any event of default shall impair any such right or power or shall be construed to be a waiver of such event of default or an acquiescence therein.

If the Trustee shall exercise any of the powers or remedies conferred upon it hereunder, the Railroad Company shall have the right, after all rentals and other sums due hereunder to the Trustee shall have been received by the Trustee, to require title to such of the Trust Equipment as shall not previously have been sold, assigned, transferred or otherwise disposed of by the Trustee to others to be transferred and assigned by the Trustee to the Railroad Company free from any further liabilities or obligations to the Trustee hereunder. If after applying all sums of money received by the Trustee in the exercise of such powers or remedies there shall remain any amount due to the Trustee under the provisions of this Lease, the Railroad Company hereby agrees to pay to the Trustee the amount of such deficiency. If after applying as aforesaid all sums so received by the Trustee there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to the Railroad Company.

Eighth. The Railroad Company covenants that prior to the delivery to it of any of the Trust Equipment covered thereby it will cause this Lease and said Agreement, and thereafter from time to time any and all supplemental leases and agreements which may be executed pursuant to the terms hereof and of said Agreement, to be duly filed, registered or recorded and duly refiled, reregistered and rerecorded in each and every jurisdiction

required by law, in order to publish notice of and to protect the Trustee's title to the Trust Equipment and any additions or replacements, and from time to time will perform any other act required by law, and will execute any and all further instruments that reasonably shall be requested by the Trustee for such publication and protection of such title.

Ninth. Until it shall have discharged all its obligations under this Lease, the Railroad Company shall pay all costs, charges and expenses incident to the performance of all terms and conditions of this Lease and said 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 said Agreement and of any instrument of further assurance, and all stamp taxes and other taxes, duties, imposts, assessments, charges, fines and penalties of any kind imposed upon this Lease, said Agreement 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.

Tenth. This Lease 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.

Eleventh. This Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the Trustee, acting in accordance with the terms and conditions of said Agreement, and the

Railroad Company have caused these presents to be duly executed, as of the day and year first above written.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,
By _____,
Vice-President.

Attest: _____,
Assistant Secretary.

Signed, sealed and delivered by Continental Illinois National Bank and Trust Company of Chicago in the presence of:
_____,
_____,
Attesting Witnesses.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,
By _____,
President.

Attest: _____,
Secretary.

Signed, sealed and delivered by Chicago, Milwaukee, St. Paul and Pacific Railroad Company, in the presence of:
R K Merrill,
Ruth E. Hall,
Attesting Witnesses.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

_____, 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 OCTOBER, 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 H. W. KITCHELL and V. P. NELSON, each to me personally known and known to me to be, respectively, a Vice-President and an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, 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 thereunto subscribed as such, and said H. W. KITCHELL and V. P. NELSON, 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 H. W. KITCHELL resides in EVANSTON, in the State of Illinois, and that said V. P. NELSON resides in CHICAGO, in the State of Illinois, that said H. W. KITCHELL is a Vice-President and said V. P. NELSON is an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, the corporation described in and which executed the

within and foregoing instrument in writing; that they, said H. W. KITCHELL, Vice-President and V. P. NELSON, 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 order and 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 Assistant Secretary in behalf of said corporation by like order and 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 18, 1947

William Russell

Notary Public in and for the State of Illinois, County of Cook.

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 William Russell 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 21st day of Oct

Michael J. Flynn County Clerk.

STATE OF ILLINOIS, COUNTY OF COOK. } ss.

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 17th day of October, 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 C. H. BUFORD and T. W. BURTNESS, to me personally known and known to me to be, respectively, ——— 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 ——— 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 Wheaton 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 ——— President and said T. W. BURTNESS is ——— Secretary of Chicago, Milwaukee, St. Paul and Pacific Railroad Company,

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the corporation described in and which executed the within and foregoing instrument in writing; that they, said C. H. BUFORD, ——— 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 caapcities as ——— 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 15, 1947.

R. W. Spangenberg

Notary Public in and for the State of Illinois, County of Cook

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, 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 21st day of Oct

Michael J. Flynn County Clerk.

THIS AGREEMENT, dated as of October 1, 1947, by and between PAUL B. ROBB and H. J. GROENER (hereinafter called the Vendors), of the first part, CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO (hereinafter called the Trustee), as Trustee, of the second part, and CHICAGO, MILWAUKEE, ST. PAUL and PACIFIC RAILROAD COMPANY (hereinafter called the Railroad Company), of the third part, WITNESSETH as follows:

WHEREAS, the Vendors have acquired or will acquire from the Railroad Company the railroad equipment (which together with the additional or substituted equipment and replacements as in the Lease and this Agreement provided are hereinafter called the Trust Equipment) specifically described in the Lease of Railroad Equipment from the Trustee to the Railroad Company prefixed to this Agreement, to which Lease reference is hereby made; and

WHEREAS, subscriptions have been or are being secured, in an amount not exceeding $2,240,000 to a fund to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series AA, which said fund is to be deposited with the Trustee and applied by the Vendors or upon their written order in part payment on account of the cost of the Trust Equipment; and

WHEREAS, the Vendors desire to secure to the subscriber or subscribers to said fund, or their assigns, the payment of the amount thereof in twenty equal semiannual installments, payable respectively on April first and October first, in each year, beginning on April 1, 1948, and ending on October 1, 1957, as hereinafter more particularly provided, with dividends to said dates of maturity respectively as hereinafter provided; and to evidence the rights of the

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subscriber or subscribers to said fund by Trust Certificates in substantially the form hereinafter set forth; and

WHEREAS, the Railroad Company is desirous of securing the use of the Trust Equipment upon and in connection with the properties of the Railroad Company; and

WHEREAS, the Railroad Company represents that all things necessary to make the guaranty of the Railroad Company as endorsed upon the Trust Certificates, when said Certificates shall be issued by the Trustee under this Agreement, the binding, valid and legal obligation of the Railroad Company, as herein provided, and to make this Agreement and said 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 I.

SECTION 1. 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 of the Trust Certificates hereinafter described, the Trust Equipment described or referred to in said Lease prefixed hereto when and as the Trust Equipment or any part thereof is constructed or completed or otherwise acquired. The Vendors will deliver, or cause to be delivered, the Trust Equipment or any part thereof when and as constructed or 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 or agents of the Railroad Company, and the certificate of any and every agent so

designated shall be conclusive evidence of such delivery. The Trustee and the Railroad Company, simultaneously with the execution of this Agreement, have executed and delivered said Lease of all the Trust Equipment.

SECTION 2. The Trustee shall at any time, or from time to time, upon written request of the Vendors, without waiting for the recording, registration or filing of this agreement, or of any lease of or other instrument respecting the equipment subjected to this Agreement, execute and deliver to the subscriber or subscribers to said fund, as specified in such request, certificates to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust Certificates, Series AA, herein called the Trust Certificates, upon the deposit in cash with the Trustee of a sum equal to the principal amount and accrued dividends to date of delivery of the Trust Certificates the execution and delivery of which shall be so requested and not less than the net proceeds of the sale of said Trust Certificates.

Any interest allowed by the Trustee or earned upon any money so deposited shall be added to said fund and become a part of the Deposited Cash to be disposed of as hereinafter provided. All moneys paid to the Trustee as accrued dividends upon the original issuance and delivery of any Trust Certificates shall be held by the Trustee until the next ensuing dividend payment date, and thereupon shall be applied by the Trustee to the payment of any dividends then due, as if such moneys were paid to the Trustee by the Railroad Company as rent pursuant to Article First of said Lease for application as in subparagraph (e) thereof provided.

SECTION 3. The term Deposited Cash, whenever used herein, shall mean and include (a) the cash deposited with or to the credit of the Trustee constituting said fund, or a part thereof, as in Section 2 of this Article I provided

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(including any interest allowed or earned thereon, but excluding any accrued dividends paid upon the original issuance of Trust Certificates), and (b) all installments of rental paid pursuant to subdivisions (a) and (b) of Article First of said Lease. The Deposited Cash shall, until paid out by the Trustee as herein provided, be held in trust for the benefit of the bearers of the Trust Certificates. Thereafter, from time to time, when and as any of the Trust Equipment shall have been delivered to the Trustee, the Trustee shall pay to the Vendors, or upon their order, out of the Deposited Cash, an amount equal to the cost of the equipment so delivered to the Trustee, such cost to be conclusively established (subject to the provisions of Section 4 of this Article I) by the certificate in writing of the Railroad Company by its duly designated representative, delivered to the Trustee prior to or contemporaneously with such payment.

SECTION 4. The Trustee shall not pay out any Deposited Cash as provided by Section 3 of this Article I against the delivery of any of the Trust Equipment unless and until it shall have received:

(a) a certificate of the agent or agents designated by the Trustee to receive delivery of the Trust Equipment, stating that Trust Equipment specified by numbers in such certificate has been delivered to such agent or agents and stating that certain of the units of the Trust Equipment specified by numbers in such certificate have been marked in accordance with the provisions of Article Fourth of said Lease;

(b) a certificate of the Railroad Company, signed by the President or the Vice-President and Comptroller or an Assistant Comptroller of the Railroad Company, certifying that the cost of such Trust Equipment, determined as provided in said Lease, is the amount therein specified;

(c) a bill or bills of sale of such Trust Equipment from the Railroad Company to the Vendors and from the Vendors to the Trustee, such bill of sale by the Railroad Company to contain or be accompanied by a warranty or guaranty of the Railroad Company that the title to the Trust Equipment described therein is

free from any liens or encumbrances or that it is free from any lien or encumbrance except the liens, if any, of the First Mortgage and of the General Mortgage of the Railroad Company, and that pursuant to the provisions in said mortgages contained, they have been released or subordinated as to such Trust Equipment to secure or confirm the prior right, charge, lien or title of the Trustee in this Agreement and in the Lease hereto prefixed to such equipment; and

(d) an opinion of counsel satisfactory to the Trustee that such bill or bills of sale and deliveries are valid and effective, either alone or in connection with any other instrument executed in connection therewith, to vest in the Trustee, free from all liens and encumbrances, the title so transferred to the Trustee or that it is free from any lien or encumbrance except the liens, if any, of the First Mortgage and of the General Mortgage of the Railroad Company, and that the liens of each of the mortgages of the Railroad Company, pursuant to the provisions in said mortgages contained, have been released or subordinated as to such Trust Equipment to secure or confirm the prior right, charge, lien or title of the Trustee in this Agreement and in the Lease hereto prefixed to such equipment.

Any such certificate or certificates as to cost may state that the cost of the Trust Equipment therein referred to is tentatively determined, subject to final adjustment, and in that case, adjustments may be made by certificates thereafter filed. A final certificate, signed as provided in paragraph (b) above, as to the cost of all the Trust Equipment shall be delivered to the Trustee by the Vendors not later than October 1, 1948.

SECTION 5. In the event that, owing to the imposition of restrictions by the United States Government, or any governmental bureau, commission, or agency having authority in the premises, the Vendors shall be unable to acquire any and all of the Trust Equipment specifically described in the Lease, the Vendors may cause to be built or acquired, if available, and in such event shall sell,

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assign, transfer, and set over, or cause to be sold, assigned, transferred, and set over unto the Trustee, subject to the provisions of the foregoing Section 4 of this Article I, other new, standard gauge railroad equipment, of such classes or types, and of such material and construction, as may be approved by the Railroad Company; provided, however, that the Trustee shall not acquire work equipment, except in substitution for work equipment described in the Lease.

In the event that the aggregate cost of the Trust Equipment specifically described in the Lease, and of any equipment that may be substituted therefor in accordance with the provisions of the foregoing paragraph, acquired by the Trustee hereunder, shall not amount to at least $3,000,000, then the Vendors shall cause to be built or acquired, if available, and, in such event, shall sell, assign, transfer and set over, or cause to be sold, assigned, transferred and set over unto the Trustee, subject to the provisions of the foregoing Section 4 of this Article I, other new, standard gauge railroad equipment, other than work equipment, of such classes or types, and of such material and construction, as may be approved by the Railroad Company, and of such cost that the aggregate cost of all the Trust Equipment will be at least $3,000,000.

In case any substituted or additional equipment shall be acquired and transferred to the Trustee in accordance with either of the preceding two paragraphs, the Trustee shall execute to the Railroad Company a supplemental lease of such substituted or additional equipment, describing the same, upon and subject to the terms and conditions hereof and of the Lease, and such substituted or additional equipment shall be part of the Trust Equipment, subject to all the terms and conditions of this Agreement and the Lease in all respects as though it had been part of the original Trust Equipment specifically described in the Lease.

SECTION 6. The Trustee shall, on request of the Railroad Company, invest and keep invested all, or such part of the Deposited Cash not needed by it to pay for Trust Equipment delivered or about to be delivered, as may be designated by the Railroad Company, in such United States Government securities as they may designate. The Trustee, with or without the request of the Railroad Company, may from time to time sell, at the prevailing market prices, such amount of such securities as it may deem necessary to provide cash to pay for Trust Equipment delivered, or about to be delivered, and may, with or without such request, at any time or from time to time, sell at such prices, all or part of such securities, if, by reason of a declining market therefor, it believes there is danger of the securities going below par. The Trustee shall sell any such United States Government securities held by him, when directed by the Railroad Company. The Railroad Company covenants and agrees that, if the selling price of said securities, including any accrued interest and premium, plus any interest paid to the Trustee on such securities, is less than the purchase price thereof, including any accrued interest and premium, the Railroad Company shall forthwith pay to the Trustee the amount of such deficiency as rental, as provided in Paragraph First of the Lease. All interest received by the Trustee on such securities, and all proceeds of the sale thereof, including premium and accrued interest, if any, shall constitute part of Deposited Cash.

SECTION 7. Anything in this Article 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 principal sum of $2,240,000 at any one time outstanding (subject, however, to the provisions of Section 6 of Article II of this Agreement).

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SECTION 8. Any moneys held by the Trustee after delivery of and payment for all of the Trust Equipment, the disposition of which is not herein or in said Lease otherwise provided for, shall be credited against the next installment of rental payable under Section (f) of Article First of said Lease.

ARTICLE II.

SECTION 1. Each of the definitive Trust Certificates shall represent an interest in the amount of One Thousand Dollars ($1,000) in the trust of the Trust Equipment hereby created, and the bearer of any trust certificate, whether definitive or temporary, shall be entitled to receive dividends on said amount at the rate of 1¼ per cent per annum from October 1, 1947, payable semi-annually on the first day of April and October in each year. $112,000 principal amount of the Trust Certificates shall become due and payable on April 1 and October 1 in each year beginning on April 1, 1948, and ending on October 1, 1957. Each of said Trust Certificates shall have endorsed thereon the guaranty of the Railroad Company in the form hereinafter set forth.

The due date of each Trust Certificate shall appear on its face. The definitive Trust Certificates shall be numbered from 1 consecutively upward to 2240, both inclusive.

Dividend warrants evidencing the right of the holders of the Trust Certificates to the dividends thereon shall be annexed to the respective definitive Trust Certificates. All dividends on the respective Trust Certificates shall cease after the principal thereof shall have become due.

Trust Certificates if temporary may be printed and if definitive shall be lithographed, lithographically printed or engraved.

SECTION 2. The definitive Trust Certificates, the dividend warrants to be annexed thereto and the guaranty to

be endorsed thereon by the Railroad Company as hereinafter in Article III provided shall be in substantially the following forms:

(Form of Trust Certificate.)

No._____ $1,000

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD EQUIPMENT TRUST.

SERIES AA.

Total Issue not to exceed $2,240,000.

Dividends at the Rate of 1¼ Per Cent per Annum.
Payable April 1 and October 1.

Continental Illinois National Bank and Trust Company of Chicago,
Trustee.

Principal Hereof Due _____ 1, 19____

Continental Illinois National Bank and Trust Company of Chicago, as Trustee under an agreement dated as of October 1, 1947 (hereinafter referred to as the "Agreement"), between Paul B. Robb and H. J. Groener, of the first part, Continental Illinois National Bank and Trust Company of Chicago, Trustee (hereinafter referred to as the "Trustee"), of the second part, Chicago, Milwaukee, St. Paul and Pacific Railroad Company (hereinafter referred to as the "Railroad Company"), of the third part, hereby certifies that the bearer hereof is entitled to an interest of One Thousand Dollars in Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series AA, payable on ..... 1, 19_____, unless prior payment hereof be required as hereinafter provided, and to dividends thereon at the rate of one and seven-eighths per cent (1⅞%) per annum from October 1, 1947, to said date of maturity, payable semi-annually on April first and October first in each year, but only upon pres-

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entation 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 City of Chicago and State of Illinois, or at the agency of the Trustee in the Borough of Manhattan, in the City and State of New York, in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts, all without deduction for any tax, assessment or other governmental charge (other than Federal income taxes) which the Railroad Company or the Trustee may be required to pay, or to retain therefrom, under any present or future law of the United States of America, or of any state, county, municipality or other lawful taxing authority therein, but only from and out of rentals or other moneys received by the Trustee from a certain Lease of Railroad Equipment made by Continental Illinois National Bank and Trust Company of Chicago, Trustee, to the Railroad Company, dated as of October 1, 1947.

This certificate is one of an issue of certificates, in bearer form, in an aggregate principal amount not exceeding $2,240,000, substantially identical except as to dates of maturity, all issued or to be issued under said Agreement. The terms of the Agreement further provide that said railroad equipment (or deposited cash and United States Government securities in lieu thereof as provided in said Agreement) and said Lease thereof are to be held by the Trustee in trust for the benefit of the bearers of said certificates. Reference is hereby made to said Agreement and Lease, filed with the Trustee at its office in the City of Chicago, for a further statement of the rights of the bearers of said certificates thereunder.

This certificate and the attached dividend warrants are issued subject to the condition, and every holder of this certificate or of any such dividend warrants, by accepting the same, agrees with every subsequent holder hereof and with the Trustee and the Railroad Company, that delivery of this certificate or any such dividend warrant by any 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 a negotiable instrument payable to bearer and the Trustee and the Railroad Company shall be entitled to treat the bearer hereof or the bearer of 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 the Railroad 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.

IN WITNESS WHEREOF, the Trustee has caused this certificate to be signed by one of its Vice-Presidents, and its corporate seal to be hereunto affixed and to be attested by its Secretary or an Assistant Secretary, and dividend warrants bearing the facsimile signature of one of its Assistant Secretaries to be attached hereto, as of the first day of October, 1947.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,
As Trustee,

By_____
Vice-President.

Attest:

_____
Assistant Secretary.

(Form of Dividend Warrant.)

$_____ No._____

Due to the bearer hereof on the first day of_____, 19_____, on surrender hereof at the office or agency of the undersigned Trustee in the City of Chicago and State of Illinois, or at its agency in the Borough of Manhattan, City and State of New York, _____ and _____ Dollars, without deduction for any tax or taxes

(other than Federal income taxes) required to be paid or retained, as provided in, and being the semi-annual dividend then due on, certificate No. _____ of Chicago, Milwaukee. St. Paul and Pacific Railroad Equipment Trust, Series AA, payable only out of rentals received by the Trustee under the Lease referred to in said certificate.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,
as Trustee,

By_____
Assistant Secretary.

(Form of Guaranty.)

Chicago, Milwaukee, St. Paul and Pacific Railroad Company, for a valuable consideration, hereby unconditionally guarantees to the bearer of the within Certificate, as provided in the Agreement referred to in said Certificate, the prompt payment of One Thousand Dollars, being the principal of said Certificate, when the same shall become due and payable, whether at the maturity thereof or by declaration or otherwise, and of dividends thereon at the rate of 1¾ per cent per annum on the semi-annual dates mentioned in said Certificate and in the dividend warrants thereunto attached, all in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY.
By_____
Authorized Agent.

SECTION 3. The Trust Certificates shall be signed in the name and on behalf of the Trustee by one of its Vice-Presidents, and its corporate seal shall be thereunto affixed and attested by its Secretary or one of its Assistant Secretaries. In case any of the officers of the Trustee who

shall have signed and sealed any of the Trust Certificates shall cease to be such officers of the Trustee before the Trust Certificates so signed and sealed shall have been issued and delivered by the Trustee, such Trust Certificates shall be adopted by the Trustee and be issued and delivered as though the persons who signed and sealed such Trust Certificates had not ceased to be such officers of the Trustee. The dividend warrants to be thereunto attached shall be authenticated by the facsimile signature of the present or any future Assistant Secretary of the Trustee, and the Trustee may adopt and use for that purpose any such facsimile signature notwithstanding the fact that such Assistant Secretary may have ceased to be such Assistant Secretary at the time when any such Trust Certificate shall be issued and delivered as herein provided. Before executing and delivering any Trust Certificates the guaranty of the Railroad Company shall be duly executed thereon as hereinafter in Section 2 of Article III provided, and all matured dividend warrants thereto appertaining shall be cut off and canceled and delivered by the Trustee to the Railroad Company.

SECTION 4. Trust Certificates shall be in bearer form and shall pass by delivery.

Dividends upon the Trust Certificates shall be payable only upon presentation and surrender of the appropriate dividend warrants, or, in the case of temporary Trust Certificates without warrants, only upon presentation of such temporary Trust Certificates for a notation of such payment thereon.

Anything to the contrary herein notwithstanding, the parties hereto may deem and treat the bearer of any Trust Certificate 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.

SECTION 5. Temporary printed Trust Certificates, with or without dividend warrants, in such form and denominations as the Trustee may determine, may be issued by the Trustee, having endorsed thereon said guaranty of the Railroad Company, which shall be exchangeable, without cost, upon surrender for definitive Trust Certificates, of equal principal amount and of the same maturity or maturities and having endorsed thereon said guaranty of the Railroad Company, when the same shall have been prepared. 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 Railroad Company.

SECTION 6. In case any Trust Certificate, or the dividend warrants thereto attached, shall become mutilated or defaced or be lost, destroyed or stolen, then on the terms herein set forth, and not otherwise, the Trustee shall execute and deliver a new Trust Certificate (and the Railroad Company shall execute its guaranty thereon), with all unmatured dividend warrants, if any, appertaining thereto, of like maturity, tenor and date, and bearing the same serial number as the one mutilated, defaced, lost, destroyed or stolen, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Trust Certificate and warrants, or in lieu of and substitution for the same if lost, destroyed or stolen, and make payment of any matured dividend warrants appertaining to the same. The applicant for a new Trust Certificate shall furnish to the Trustee and to the Railroad Company evidence to their satisfaction of the loss, destruction or theft of said Trust Certificate or warrants alleged to have been lost, destroyed or stolen and of the ownership and authenticity of such

mutilated, defaced, lost, destroyed or stolen Trust Certificate and warrants, and also such security or indemnity as may be required by the Trustee and by the Railroad 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, defaced, lost, destroyed or stolen 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.

ARTICLE III.

SECTION 1. The Railroad 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 may be liable, and all taxes (other than Federal income taxes) which the Trustee or the Railroad Company may be required to pay or to retain from the principal of the Trust Certificates or the dividends payable in respect thereof, under any present or future law of the United States of America or of any state, county, municipality or other lawful taxing authority therein.

SECTION 2. The Railroad Company covenants and agrees and unconditionally guarantees that the bearer of each of the Trust Certificates shall receive the principal amount thereof, in such coin or currency of the United States of America as, at the respective times of payment, is legal tender for public and private debts, when and as the same shall become due and payable, whether at the maturity thereof or by declaration or otherwise (and, if not so

paid, with interest thereon at the same rate per annum as provided in the dividend warrants), and shall receive dividends thereon in like coin or currency at the rate of 1¼ per cent per annum from October 1, 1947, to the date of maturity of such Trust Certificate, at the times and places and otherwise as expressed in the Trust Certificates and the warrants thereto attached (and if not so paid, with interest thereon at the same rate per annum as provided in the dividend warrants); all without deduction for any tax, assessment or other governmental charge (other than Federal income taxes) which the Railroad Company or the Trustee may be required to pay, or to retain therefrom, under any present or future law of the United States of America, or of any state, county, municipality or other lawful taxing authority therein, and the Railroad Company further covenants and agrees to endorse upon each of the Trust Certificates, definitive or temporary, at or before the issue and delivery thereof by the Trustee, its unconditional guaranty of the prompt payment of the principal thereof and of the dividends thereon, in substantially the form in Section 2 of Article II hereof provided. Said guaranty so endorsed shall be signed in the name and on behalf of the Railroad Company by such officer or officers as shall have been duly authorized by the Board of Directors of said Railroad Company to sign upon its behalf. In case any of the officers of the Railroad Company who shall have signed such guaranty shall cease to be such officers of the Railroad Company before the Trust Certificates shall have been actually issued and delivered by the Trustee, such guaranty shall nevertheless be as effective and binding upon the Railroad Company as though the persons who signed such guaranty had not ceased to be such officers of the Railroad Company.

ARTICLE IV.

SECTION 1. The Railroad 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 lien or charge upon or against any of the Trust Equipment, except upon the leasehold interest of the Railroad 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 the holders of the Trust Certificates in the Trust Equipment.

SECTION 2. The Railroad 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, the expenses incident to the preparation, execution and exchange of the Trust Certificates and dividend warrants, including the temporary Trust Certificates, or connected with the preparation, execution, recording, registration and filing hereof or of said Lease or of any instruments executed under the provisions hereof or of said Lease in respect of the Trust Equipment or Lease, or any equipment or parts used to replace any of the same.

SECTION 3. The Railroad Company covenants and agrees with all convenient speed to cause this Agreement and said Lease and any supplemental leases and agreements which may be executed under the terms of this Agreement, or of said Lease, to be duly filed or recorded in all states wherein

are situated railroad lines which the Railroad Company operates or to which it has title or over which it has trackage rights, or wherein are situated railroad lines of any railroad company a majority of whose capital stock is owned or controlled by the Railroad Company, and otherwise as may now or hereafter be provided by law for the full protection of the title and rights of the Trustee and of the holders of the Trust Certificates, so that this Agreement and said Lease and all other such supplemental instruments may at all times be duly filed and recorded.

SECTION 4. The Railroad Company covenants and agrees from time to time to do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and said Lease and the intent thereof.

ARTICLE V.

SECTION 1. In order to prevent any accumulation of Trust Certificates or of dividend warrants after maturity, neither the Trustee nor the Railroad Company shall directly or indirectly extend or assent to the extension of the time for the payment of any Trust Certificate 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 Railroad Company shall directly or indirectly be a party to or approve of any arrangement for purchasing or funding any of said Trust Certificates 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 or dividend warrant shall be so extended, whether or not such extension be by or with the consent of the Trustee or the Railroad 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 Railroad 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 Railroad Company, such Trust Certificate, dividend or dividend warrant shall not be entitled to the benefit of said Lease or of this Agreement, except subject to the prior payment in full of the principal of all other Trust Certificates, dividends and dividend warrants, whether the same be then matured or unmatured.

SECTION 2. In case one or more of the events of default described in Article Seventh of said Lease shall happen, the Trustee in its discretion may, and at the request of the bearers of twenty per cent (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 (so far as may be necessary to perform the trusts hereunder), at public sale, for cash or upon credit, as the Trustee may deem most beneficial to the interest of the bearers of said Trust Certificates. Upon the written request of the bearers of twenty per cent (20%) in principal amount of the Trust Certificates at the time outstanding, in case one or more of said events of default shall happen (whether the principal of the Trust Certificates shall have been declared due and payable or not), it shall be the duty of the Trustee upon being indemnified as hereinafter pro-

vided to take all steps for the protection and enforcement of its rights and the rights of the bearers of the Trust Certificates, and to exercise one or more of the powers of entry, sale or lease in said 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 interest of the bearers of the Trust Certificates; but, anything in this Agreement to the contrary notwithstanding, upon indemnity satisfactory to the Trustee the bearers of a majority in principal amount of the Trust Certificates then outstanding shall have the right from time to time to direct what proceedings for any enforcement of said Lease and this Agreement and the sale or lease of the Trust Equipment shall be taken by the Trustee. The proceeds of such proceedings or lease or sale shall be applied by the Trustee to the payment after deducting the expenses of the trust and reasonable compensation of the Trustee and all taxes, assessments and other governmental charges which the Trustee may by law be required to pay in respect of the trust or the Trust Certificates aforesaid or the dividends thereon:

(1) of the dividends and dividend warrants then due with interest on any overdue dividends and dividend warrants at the same rate per annum as provided in the dividend warrants; and

(2) of the principal of all said outstanding Trust Certificates with interest thereon at the same rate per annum as provided in the dividend warrants, from the last preceding dividend date, whether said Certificates or any of them shall then have matured by their terms or not;

all of said payments to be in full, if said proceeds shall be sufficient and if not, then *pro rata*, without preference of principal over dividends, or of dividends over principal or otherwise (subject, however, to the provisions of Section 1 of this Article V), and without regard to the dates of maturity thereof.

The foregoing provisions, however, are subject to the condition that, if at any time after the principal of the Trust Certificates shall have been declared and have become due and payable, as hereinbefore provided, but before October 1, 1957, all arrears of rental (with interest upon any overdue instalment at the same rate per annum as provided in the dividend warrants), the expense and reasonable compensation of the Trustee and all other sums which shall have become due and payable by the Railroad Company hereunder or under said Lease (other than the principal of Trust Certificates and rental instalments which shall not at the time have matured according to their terms) shall be paid by the Railroad Company before any taking possession, withdrawal, sale or lease by the Trustee of any of the Trust Equipment, and every other default in the observance or performance of any covenant or condition of this Agreement or said Lease shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then and in every such case the Trustee, if so requested by the bearers of a majority in principal amount of the Trust Certificates then outstanding and which shall not have been matured according to their terms, shall, by written notice to the Railroad Company, waive the default by reason of which the principal of the Trust Certificates shall have been declared and become due and the consequences of such default, and said Lease shall upon such waiver be and continue in full force and effect, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

Neither such retaking possession nor any withdrawal or lease or sale of the Trust Equipment by the Trustee nor any action or failure or omission to act, against the Railroad Company or in respect to the Trust Equipment, on

the part of the Trustee or on the part of any bearer of any Trust Certificate or dividend warrant, nor any delay or indulgence granted to the Railroad Company by the Trustee or any such bearer, shall affect the obligations of the Railroad Company under this Agreement or under said Lease or under its guaranty.

The Railroad Company waives presentation and demand in respect of any of the Trust Certificates and dividend warrants and waives notice of presentation and demand and of any default in the payment of principal of and dividends upon the Trust Certificates.

The Trustee may at any time, upon notice in writing to the Railroad Company, apply to any court of competent jurisdiction for instructions as to the application and distribution of any funds or property held by it.

ARTICLE VI.

SECTION 1. The Trustee hereby accepts the trust created hereby, subject to the terms and conditions hereof and of said Lease, and hereby covenants and agrees, so far as reasonably possible, subject to the provisions of Sections 4, 5 and 7 of this Article VI, to perform, and to enforce the performance of, all and singular the terms, conditions and covenants of said Lease.

SECTION 2. The Trustee covenants and agrees to apply and distribute the rentals received by it under subdivisions (c), (d), (e), (f) and (g) of Article First of said Lease, when and as the same shall be received, for the following purposes, to wit:

(a) to the payment of the necessary and reasonable expense of the trust, including the proper compensation of the Trustee and its counsel for its services and all expenses connected with the Trust Equipment and said Lease thereof;

(b) to the payment of any taxes, assessments and other governmental charges upon the Trust Equipment which it may by law be required to pay; and to the payment of any and all taxes, assessments and other governmental charges (other than Federal income taxes) which may by law be charged against the Trustee upon the Trust Certificates or the dividends payable thereunder, or which the Trustee may be required to retain or deduct therefrom or to pay thereon under any present or future law of the United States of America, or of any state, county, municipality or other lawful taxing authority therein;

(c) to the payment of the dividends payable on the Trust Certificates and of the dividend warrants appurtenant thereto when and as the same shall become payable;

(d) to the payment of the principal of the Trust Certificates when and as the same shall become payable according to the terms thereof or hereof; and

(e) to the payment of interest on any unpaid dividends, dividend warrants or principal at same rate per annum as provided in the dividend warrants.

SECTION 3. The Trustee, at all times until the payment of the principal of all the Trust Certificates, shall keep an office or agency in the City of Chicago and State of Illinois and an agency in the Borough of Manhattan in the City and State of New York, where the Trust Certificates and dividend warrants may be presented for payment.

SECTION 4. The Trustee assumes no liability for anything other than its own wilful default, misconduct or gross neglect, or that of its officers or directors. It shall be required to undertake no act or duty in the way of taking care of or taking possession of the Trust Equipment until fully secured against all liability and expenses.

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The Trustee shall not be liable for the delivery of any of the Trust Equipment, or for any defect therein or in the title thereto of the Trustee, nor shall anything herein be construed as a warranty 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. All representations and recitals contained in this Agreement and in said Lease are made by and on behalf of the Railroad 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 purports to have any knowledge with respect thereto, and the Trustee shall not be responsible in any way for the validity thereof, 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, nor shall it be responsible for the filing, refiling, recording or rerecording of this Agreement or of said Lease; and the Trustee may issue and deliver Trust Certificates in advance of such filing or recording.

The Trustee may exercise its powers and perform its duties hereunder and under said Lease by or through such attorneys, agents and servants as it shall appoint, and it shall be entitled to the advice of counsel (who may, in cases deemed by the Trustee, in its reasonable discretion, to be appropriate, be of counsel for the Railroad Company), and shall be protected by the advice of such counsel in anything reasonably done, or omitted to be done, by it in good faith in accordance with such advice. The Trustee shall not be liable or responsible for the neglect, default or misconduct of any attorney, agent or servant appointed and retained by it in the exercise of reasonable care, but nothing in this

sentence contained shall limit any liability of the Trustee, pursuant to the first sentence of this Section 4, for acts, neglects or wilful defaults of its officers or directors.

SECTION 5. The Trustee shall be under no obligation to take any action for the execution or enforcement of any of the trusts hereby created unless requested thereunto in writing by the bearers of not less than twenty per cent (20%) in principal amount of the then outstanding Trust Certificates, and upon being satisfactorily indemnified against expenses and liability with respect thereto, and also furnished with proof satisfactory to it as to the ownership of the Trust Certificates in respect of which any notice or request may be made; but neither any such request nor this provision therefor shall affect any discretion herein elsewhere specifically given to the Trustee to determine what action it shall take in respect of any such default, or to take action without request.

SECTION 6. No bearer of any Trust Certificate or dividend warrant issued hereunder (other than the bearer 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, after the aforesaid request in writing by the bearers of not less than twenty per cent (20%) in principal amount of the then outstanding Trust Certificates shall have been made upon the Trustee and ninety days' time elapsed for action by the Trustee upon such request, it shall decline to institute any proceedings pursuant thereto.

SECTION 7. The Trustee may, for all purposes, conclusively assume that the Railroad Company is not in default under the terms hereof until notified in writing to the contrary by the bearers of at least five per cent (5%) in principal amount of the Trust Certificates then outstanding,

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which notice shall distinctly specify the default desired to be brought to the attention of the Trustee.

SECTION 8. The Trustee shall not incur any liability to anybody in acting upon any notice, consent, order, certificate, warrant, receipt, request or other paper or instrument reasonably believed by it to be genuine or authentic, and to be signed by the proper party or parties and reasonably believed by it to be sufficient.

SECTION 9. The Trustee, in so far as permitted by law, will allow such interest upon all moneys received by it under the provisions of this Agreement or of said Lease as during that time is allowed by it upon deposits of a similar character.

SECTION 10. The Trustee may resign and be discharged from the trusts created by this Agreement by mailing to the Railroad Company notice in writing of such resignation, specifying a date when it is desired that such resignation shall take effect. Such notice shall be published at least once in each of three successive calendar weeks prior to the date specified in such notice, on any day or days of the week, in two daily newspapers printed in the English language, one published and of general circulation in the City of Chicago and State of Illinois and the other in the Borough of Manhattan in the City and State of New York. Such resignation shall take effect immediately upon, but not prior to, the appointment of, and acceptance of the trust by, such successor trustee as hereinafter provided, whether on, prior to, or subsequent to, the date stated in said notice of resignation.

Any trustee hereunder may be removed at any time by an instrument in writing filed with the Trustee and executed by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding.

SECTION 11. In case at any time the Trustee shall resign or shall be removed or otherwise shall become incapable of acting, a successor may be appointed by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding by an instrument or concurrent instruments signed by such bearers or their attorneys in fact duly authorized; but until a new trustee shall be appointed by such bearers as herein authorized, the Railroad Company, by an instrument executed by the President or the Vice-President and Comptroller of the Railroad Company, or its duly authorized agent, shall appoint a trustee to fill such vacancy. If the Railroad Company shall fail, within thirty days after receipt of notice that the Trustee has resigned, to appoint a trustee to fill such vacancy, and if a successor trustee shall not have been appointed by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee. Every such successor trustee, whether appointed by the bearers of the Trust Certificates or by the Railroad Company or by order of court, shall always be a trust company or bank having power so to act, shall be a member bank of the Federal Reserve System, or of such system of banks, if any, as may be established in lieu thereof, shall be organized under the laws of the United States of America, or the State of Illinois and having an office in the City of Chicago and State of Illinois, or the State of New York and having an office in the Borough of Manhattan in the City and State of New York, and shall have a capital and surplus aggregating at least Five Million Dollars. After any such appointment by the Railroad Company or by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding the Railroad Company

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shall cause notice of such appointment to be published once a week in each of four successive weeks in two daily newspapers printed in the English language, one published and of general circulation in the City of Chicago and State of Illinois, and the other in the Borough of Manhattan in the City and State of New York; but any new trustee so appointed by the Railroad Company or by a court of competent jurisdiction shall immediately, and without further act, be superseded by a trustee appointed, in the manner above provided, by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding, provided such appointment is made within a period of one year after the Trustee shall resign, be removed or become incapable of acting.

Any successor trustee appointed hereunder shall execute, acknowledge and deliver to the Railroad 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 Railroad 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 Railroad Company.

Any corporation resulting from any merger or consolidation to which the Trustee, or any successor to it, shall be a party, shall be the 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, provided such corporation shall be a corporation having power so to act, shall be a member bank of the Federal Reserve System, or of such system of banks, if any, as may be established in lieu thereof, shall be organized under the laws of the United States of America, or the State of Illinois and having an office in the City of Chicago and State of Illinois, or the State of New York and having an office in the Borough of Manhattan, in the City and State of New York, and shall have a capital and surplus aggregating at least Five Million Dollars.

SECTION 12. The Trustee shall be entitled to reasonable compensation for all services rendered by it and the Railroad Company agrees to pay from time to time, on demand of the Trustee, such compensation and to reimburse the Trustee for, and defend and save it harmless against, any and all loss, damage, liability, claims, demands, disbursements and expenses, including reasonable counsel fees, which it may incur hereunder or under said Lease, and to secure the payment thereof the Trustee shall have a lien on the Trust Equipment and the proceeds thereof prior to the rights therein of the bearers of Trust Certificates.

The Trustee may become the owner of Trust Certificates and 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

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any obligation to see to the use, appropriation or application of moneys at any time paid out by it in conformity herewith.

ARTICLE VII.

In case of the death or inability to act of either of the Vendors, the other Vendor shall have and discharge all the powers of the Vendors. In case of the death or inability to act of both of the Vendors, the Trustee shall receive and distribute or pay for the account of the original Vendors, to the parties entitled to receive the same from the original Vendors, all Trust Certificates issuable or Deposited Cash or other moneys payable to the original Vendors by the Trustee hereunder. Any action taken by either of the Vendors shall have the same force and effect as if taken by both of them. The Vendors shall incur no liability hereunder, or under any bill of sale, guaranty or warranty executed by them as herein provided, for anything other than their own wilful default, misconduct or gross neglect. The Vendors shall be entitled to the advice of counsel (who may in appropriate cases be of counsel for the Railroad 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 VIII.

Any request or other instrument required by this Agreement to be signed or executed by bearers of Trust Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such bearers 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 conclusively be deemed to be satisfactory to the Trustee), 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 Illinois, acknowledgments of deeds to be recorded 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;

(b) the amount of Trust Certificates held by any person executing any such request or other instrument as a Certificate holder, and 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.

ARTICLE IX.

At the termination of said Lease, any moneys, remaining in the hands of the Trustee, after paying the principal of and dividends upon the Trust Certificates, and the expenses of the Trustee, including its reasonable compensation, shall be paid to the Railroad Company.

ARTICLE X.

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 the bearers of the Trust Certificates and the bearers of the appurtenant dividend warrants, any right, remedy or claim, under or by reason of this Agreement, or of any term, covenant or condition thereof, and all of the terms, covenants, conditions, promises and agreements in this Agreement contained shall be for the sole and exclusive benefit of the parties hereto and their successors and of the bearers of the Trust Certificates and the bearers of the dividend warrants.

ARTICLE XI.

The term "Trustee" as used herein and in said Lease shall be held and construed to mean Continental Illinois National Bank and Trust Company of Chicago, its successors and assigns; and the term "Railroad Company" herein to mean Chicago, Milwaukee, St. Paul and Pacific Railroad Company, its successors and assigns. The term "Trust Equipment" whenever used herein or in said Lease, unless otherwise indicated by the context, is intended to include all railroad equipment at any time covered by said Lease or any supplemental lease or this Agreement or required or intended so to be. The terms "Trust Certificate" or "Trust Certificates," whenever used herein or in said Lease, includes, unless the context otherwise indicates, both temporary and definitive certificates. The term "State" whenever used herein or in said Lease shall include the District of Columbia.

Whenever, under the provisions hereof, it is necessary or proper for any notice or demand to be given to or made

upon the Railroad Company, or if at any time it is desired to give any such notice or make any such demand, such notice or demand may be given or made to the Railroad Company by depositing a written statement thereof, securely enclosed in a postpaid wrapper in the United States registered mail, directed to the Railroad Company at Union Station Building, Chicago 6, Illinois, and an affidavit by any person representing or acting on behalf of the Trustee as to such mailing, shall be conclusive evidence of the giving of such notice and the making of such demand.

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.

IN WITNESS WHEREOF the parties of the first part have hereunto set their hands and seals, and the parties of the second and third parts have caused their respective corporate names to be signed hereto by their respective officers thereunto duly authorized and their respective corporate seals to be hereto affixed, duly attested, as of the day and year first above written.

Paul B. Robb (L. S.)

H. J. Groener (L. S.)

Signed, sealed and delivered by
Paul B. Robb and H. J. Groener in the presence of:

Attesting Witnesses.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,
As Trustee.

By _____
Vice-President.

Attest: _____
Assistant Secretary.

Signed, sealed and delivered by Continental Illinois National Bank and Trust Company of Chicago in the presence of

_____

_____
Attesting Witnesses.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY.

By _____
President.

Attest: _____
Secretary.

Signed, sealed and delivered by Chicago, Milwaukee, St. Paul and Pacific Railroad Company, in the presence of:

R. C. Merrill

Ruth E. Hall
Attesting Witnesses.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, William Russell, 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 OCTOBER, 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 Paul B. Robb and H. J. Groener, to me personally known and known to me to be the individuals described in and the identical persons who subscribed their names to and who executed the within and foregoing instrument in writing in my presence as parties of the first part thereto and in the presence of the two witnesses whose names are thereunto subscribed as such, and said Paul B. Robb and H. J. Groener severally duly acknowledged to me in the presence of said witnesses that they signed, sealed, executed and delivered said instrument as their 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 Cook, State of Illinois, this the day and year in this my certificate first above written.

My commission as such Notary Public expires NOVEMBER 18, 1947
——, ——.

William Russell
Notary Public in and for the State of Illinois, County of Cook.

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 William Russell 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 and certify the proof 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 that the seal affixed to 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 21st day of Oct A.D. 1947

Michael J. Flynn
County Clerk.

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STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, William Russell, 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 OCTOBER, 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 H. W. KITCHELL and V. P. NELSON, to me personally known and known to me to be, respectively a Vice President and an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, 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 H. W. KITCHELL and V. P. NELSON, 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 H. W. KITCHELL resides in EVANSTON, in the State of Illinois, and that said V. P. NELSON resides in CHICAGO, in the State of Illinois; that said H. W. KITCHELL is a Vice President, and said V. P. NELSON is an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, the corporation

described in and which executed the within and foregoing instrument in writing; that they, said H. W. KITCHELL, Vice President, and V. P. NELSON, 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 order and 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 Assistant Secretary in behalf of said corporation by like order and 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 18, 1947
——, ——.

William Russell
Notary Public in and for the State of Illinois, County of Cook.

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 William Russell 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 and certify the proof 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 that the seal affixed to 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 21st day of Oct A.D. 1947

Michael J. Flynn
County Clerk.

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STATE OF ILLINOIS, COUNTY OF COOK. } ss.

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 12th day of October, 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 C. H. BUFORD and T. W. BURTNESS, to me personally known and known to me to be respectively, ——— 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 ——— 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 ——— 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, ——— 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 ——— 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.

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 22nd day of OCTOBER A. D. 19 47 at 10:00 o'clock A.M. and recorded in Vol. 40 of RAILROAD MORTGAGES on pages 168-197 incl.
[illegible]

STATE OF ILLINOIS, COUNTY OF COOK. } 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, was, at the time of taking such proof of acknowledgment, a Notary Public in and for said County, duly commissioned, sworn and qualified as such and authorized to take and certify proofs and acknowledgments of deeds or conveyances of lands, tenements and hereditaments, in said State of Illinois, and to administer oaths; and all of his official acts upon the records and files in my office; that I am well acquainted with the handwriting of said Notary Public and believe that the signature to the said proof of acknowledgment is genuine; and, therefore, 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 October A.D. 1947

Michael J. Flynn
County Clerk

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Wisconsin

Executed in 22 Counterparts
Counterpart No 5

Conditional Sale Agreement

DATED AS OF SEPTEMBER 10, 1947

BETWEEN

GENERAL MOTORS CORPORATION
(ELECTRO-MOTIVE DIVISION)

AND

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

FOR PURCHASE OF
THREE 1000 HP DIESEL ELECTRIC SWITCHING LOCOMOTIVES

Agreement and Assignment

DATED AS OF SEPTEMBER 12, 1947

BETWEEN

GENERAL MOTORS CORPORATION
(ELECTRO-MOTIVE DIVISION)

AND

THE NORTHERN TRUST COMPANY

THE DONNELLEY-WARREN PRINTING COMPANY, 310 WEST JACKSON, CHICAGO

This Agreement dated as of September 10, 1947, by and between **GENERAL MOTORS CORPORATION**, a corporation of the State of Delaware, **(ELECTRO-MOTIVE DIVISION)**, with an office and place of business in the Village of LaGrange, 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"):

Three (3) new, 1000 HP Diesel Electric Switching Locomotives, bearing Seller's Serial Numbers and Buyer's Road Numbers, as follows:

Serial No.	Road No.
5238	1647
5239	1648
5240	1649

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all as described by Seller's Specification No. 8009 dated April 30, 1947, and Supplement No. 1 dated August 4, 1947. Copies of said specifications and supplement have been furnished to Buyer and are, by reference made a part hereof as fully as though expressly set forth herein.

The purchase price of said equipment shall be the principal amount of Ninety-five Thousand, Eight Hundred Eighty-six Dollars and Fifty Cents ($95,886.50) for each 1000 HP Diesel Electric Switching Locomotive, delivered on Buyer's tracks, Milwaukee, Wisconsin. Interest shall be paid by the Buyer at the rate of One and Eighty-five Hundredths Per Cent (1.85%) 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 La Grange, Illinois, 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 December 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 December 31, 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) Twenty-eight Thousand and Thirty-six Dollars and Fifty Cents ($28,036.50) for each 1000 HP Diesel Electric Switching Locomotive, representing approximately twenty-five per cent (25%) of the purchase price of each such switching 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

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acceptance by the Buyer of each of the locomotives, interest at the rate of One and Eighty-five Hundredths Per Cent (1.85%) 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 One Thousand, Eight Hundred Sixty-one Dollars and Ninety Cents ($1,861.90), excepting the fortieth (40th) quarter, when the amount shall be One Thousand Eight Hundred Sixty-one Dollars and Seventy-seven Cents ($1,861.77) for each 1000 HP Diesel Electric Switching Locomotive. Each of said forty (40) quarterly installment payments includes both principal and interest at the rate of One and Eighty-five Hundredths Per Cent (1.85%) 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 5% 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 multiple 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 1.85% 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 material and construction as that lost or destroyed. The Buyer will cause any such new Equipment to be marked as

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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 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

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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 others, 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,

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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, dam-

ages, 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 obligation to manufacture, or 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 right 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 succes-

sion to the rights of the Seller hereunder, such plates to bears 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 General Motors Corporation (Electro-Motive Division). 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 General Motors Corporation (Electro-Motive Division), 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, General Motors Corporation (Electro-Motive Division), and after any such assignment, the assignee or assignees for the time being of all of such rights, except with respect to the obligation to manufacture, or to the warranties and indemnities by the Seller specified in Sections (1), (6) and (10) hereof, which shall continue as obligations of General Motors Corporation (Electro-Motive Division), as herein-

before in this Section (11) provided, and shall, in a like manner, and subject to like conditions, extend to and for the benefit of such assignee or assignees of this agreement.

(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.

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 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 5% 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) *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 the court shall approve such petition as properly filed and the Trustee or Trustees failing to adopt this Agreement within thirty (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, and the court shall approve such petition as properly filed and the Trustee or Trustees failing to adopt this Agreement within thirty (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, if any such proceeding commenced shall apply to and include obligations of the type provided for in this Agreement; 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 the appointment of a receiver, or trustee, or by execution or by any judicial or administrative decree or process, or otherwise, except with the consent of the Seller, and except the appointment of a receiver or trustee and the adoption by him of this Agreement within thirty (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 locomotives, or any of them, and exercise and enforce any and all other remedies as provided by Section 15 hereof.

(15) *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 what-

soever except as hereinafter in this Section 15 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 15, 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.

(16) *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.

(17) *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.

(18) *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.

(19) *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.

(20) *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.

(21) *Section Headings.* All section, paragraph or division headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

(22) *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.

(23) *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.

(24) *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, General Motors Corporation (Electro-Motive Division), 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 pursuant to lawful resolutions, all as of the day, month and year first above written.

GENERAL MOTORS CORPORATION (ELECTRO-MOTIVE DIVISION),

By C.R. Osborn
C.R. Osborn *Vice-President.*

Attest:

F.H. Salvador
Assistant Treasurer.

Signed, sealed and delivered by General Motors Corporation (Electro-Motive Division), in the presence of:

M.L. Fairtrace
M L Fairtrace

R.M. Sybold
R M Sybold
Attesting Witnesses.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,

By J.W. Severs
J.W. Severs
Vice President.

Attest:

T.W. Burtness
T.W. Burtness *Secretary.*

Signed, sealed and delivered by Chicago, Milwaukee, St. Paul and Pacific Railroad Company, in the presence of:

R K Merrill
R K Merrill

Ruth E. Hall
Ruth E. Hall
Attesting Witnesses.

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 the 17th day of November, 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 C.R. Osborn and F.H. Dalvador, 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), 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 Treasurer, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said C.R. Osborn and F.H. Dalvador, 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.R. Osborn resides in Hinsdale in the State of Illinois and that said F.H. Dalvador resides in La Grange in the State of Illinois; that said C.R. Osborn is a Vice-President and said F.H. Dalvador is an Assistant Treasurer of General Motors Corporation (Electro-Motive Division), a corporation described in and which executed the within and foregoing instrument in writing; that they, said C.R. Osborn, a Vice-President, and F.H. Dalvador, an 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 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 Treasurer 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 January 12th, 1950.

James Sorna
James Sorna
Notary Public in and for the State of Illinois, County of Cook.

Form 114

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, Do Hereby Certify that the foregoing certificate of the official records of Notaries Public in and for Cook County, and in such certificate mentioned, was filed in my office on the 17th day of November, A.D. 1947.

James Sorna

And I further certify that the said James Sorna was at the time of signing such proof or acknowledgment a Notary Public in and for Cook County, duly commissioned and sworn, and authorized by law to take such proof or acknowledgment 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 also in my office. And 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 18th day of November A.D. 1947.

Michael J. Flynn
County Clerk.

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STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

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 6th day of November, 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 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 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 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 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 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
R. W. Spangenberg
Notary Public in and for the State of Illinois, County of Cook.

This Agreement and Assignment, dated as of September 12, 1947, by and between **GENERAL MOTORS CORPORATION**, a corporation of the State of Delaware (**ELECTRO-MOTIVE DIVISION**), with an office and place of business in the Village of La Grange, Illinois, (hereinafter sometimes referred to as the "Seller"), as party of the first part, and **THE NORTHERN TRUST COMPANY**, a state banking corporation duly organized and existing under the laws of the State of Illinois, 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 September 10, 1947 (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 Three (3) new 1000 HP Diesel Electric Switching Locomotives, bearing Buyer's Road Numbers 1647, 1648, and 1649 (hereinafter sometimes referred to as the "Equipment"), all as more particularly described in said Agreement, for an aggregate purchase price of Two Hundred Eighty-seven Thousand, Six Hundred Fifty-nine Dollars and Fifty Cents ($287,659.50), 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 Twenty-eight Thousand and Thirty-six Dollars and Fifty Cents ($28,036.50) for each 1000 HP Diesel Electric Switching 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 manufacturing 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 1000 HP Diesel Electric Switching 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 Sixty-seven Thousand, Eight Hundred Fifty Dollars ($67,850.00) 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 December 31, 1947, and is accepted by the Buyer, the Seller shall receive from the Assignee the aforesaid bal-

ance 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 NORTHERN TRUST COMPANY, OWNER BY ASSIGNMENT FROM GENERAL MOTORS CORPORATION (ELECTRO-MOTIVE DIVISION), MANUFACTURER AND PRIOR OWNER."

3. It is understood and agreed, that the obligation of the Assignee to pay the balance of the purchase price of each 1000 HP Diesel Electric Switching 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 December 31, 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 December 31, 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, coun-

terclaim or recoupment whatsoever arising by reason of any other indebtedness 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 proper officers all as of the day, month and year first herein written.

GENERAL MOTORS CORPORATION
(ELECTRO-MOTIVE DIVISION),

By C.R. Osborn *Vice-President.*

Attest:

F.H. Salvador
Assistant Treasurer.

Signed, sealed and delivered by General Motors Corporation (Electro-Motive Division), in the presence of:

M.L. Fairtrace

R.M. Hubbard
Attesting Witnesses.

THE NORTHERN TRUST COMPANY,

By C B Weaver *Vice-President.*

Attest:

C H Samis *Assistant Secretary.*

Signed, sealed and delivered by The Northern Trust Company, in the presence of:

A.C. Zimmerman

R.H. Layman
Attesting Witnesses.

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 the 12 day of November 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 C.R. Osborn and F.H. Salvador, 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), 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 Treasurer, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and 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 said C.R. Osborn resides in Hinsdale in the State of Illinois, and that said F.H. Salvador resides in La Grange in the State of Illinois; and said C.R. Osborn is a Vice-President and said F.H. Salvador is an Assistant Treasurer of General Motors Corporation (Electro-Motive Division), the corporation described in

and which executed the within and foregoing instrument in writing; that they, said C.R. Osborn, a Vice-President, and F.H. Salvador, an 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 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 Treasurer 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 January, 17 1950.

James Sorna
James Sorna
Notary Public in and for the State of Illinois, County of Cook.

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

I, JOHN A. ZIMMERMANN 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 15 day of November 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 C. B. Heare and C. H. SAMIS, to me personally known and known to me to be, respectively, a Vice-President and Assistant Secretary of The Northern Trust 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 Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said C. B. Heare and C. H. SAMIS, 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. B. Heare resides in Oak Park, in the State of Illinois, and that said C. H. SAMIS, resides in Evanston, in the State of Illinois; that said C. B. Heare is a Vice-President and said C. H. SAMIS is an Assistant Secretary of The Northern Trust Company, the corporation described in and which executed the within and foregoing instrument in writing; that they, said C. B. Heare Vice-President, and C. H. SAMIS, 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 Vice-President and 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 March 25, 1950.

John A. Zimmermann
Notary Public in and for the State of Illinois, County of Cook.

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 18 day of NOVEMBER A. D. 1947 at 11:00 o'clock A. M. and recorded in Vol. 40 of RAILROAD MORTGAGES on pages 208, 217, 218
Walter C. Zimmerman
Secretary of State

Executed in 22
Counterparts
Counterpart No 5

Conditional Sale Agreement

DATED AS OF SEPTEMBER 10, 1947

BETWEEN

AMERICAN LOCOMOTIVE COMPANY

AND

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

FOR PURCHASE OF

TWO 1000 HP DIESEL ELECTRIC SWITCHING LOCOMOTIVES

Agreement and Assignment

DATED AS OF SEPTEMBER 12, 1947

BETWEEN

AMERICAN LOCOMOTIVE COMPANY

AND

THE NORTHERN TRUST COMPANY

THE GUNTHORP-WARREN PRINTING COMPANY, 310 WEST JACKSON, CHICAGO

This Agreement, dated as of September 10, 1947, by and between **AMERICAN LOCOMOTIVE COMPANY,** a corporation organized and existing under the laws of the State of New York, with its principal office and place of business in the City of New York, N. Y., (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 its 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"):

Two (2) new, 1000 HP Diesel Electric Switching Locomotives, bearing, respectively, Buyer's Road Numbers 1678 and 1679, all as described by Seller's Specification No. E1540, with modifications requested by Buyer, and Seller's proposal dated February 28, 1947, as supplemented March 25, 1947, and September 5, 1947, and Buyer's order dated April 1, 1947.

Copies of said Specifications have been furnished to

the Buyer, and 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 Ninety-six Thousand, Eighty-eight Dollars and Fifty Cents ($96,088.50) for each 1000 HP Diesel Electric Switching Locomotive, F. O. B. Buyer's Station, Milwaukee, Wisconsin. Interest shall be paid by the Buyer at the rate of One and Eighty-five Hundredths Per Cent (1.85%) 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.

It is expressly understood and agreed that in the event there should be a general increase in labor and/or material costs as to warrant, in the opinion of the Seller, increasing the above mentioned purchase price (which price is otherwise firm), the Seller shall notify the Buyer in writing of the amount of such increase before construction of such locomotives is started, and the Buyer shall have the option of either accepting such locomotives at the increased purchase price, or terminating this Agreement, in so far as it pertains to the construction, sale, delivery and acceptance of any such locomotives, which option shall be exercised by notice in writing to the Seller within fifteen (15) days after receipt by the Buyer of notice from the Seller of such price increase. In case such notice or notices terminate this Agreement with respect to any such locomotive or locomotives, this Agreement shall not thereafter be applicable thereto, but shall remain in full force and effect with respect to any and all other locomotives then or thereafter delivered hereunder. Unless such notice by the Buyer is in fact received by the Seller within the period specified, it shall be presumed that such increase is acceptable to the Buyer, and the Seller shall be authorized to proceed with the construction of such locomotives. If the above mentioned purchase price of such locomotives is increased pursuant to the provisions of this paragraph, the amount of any such increase in such purchase price shall be paid in cash by the Buyer to the Seller, on the date of acceptance thereof. Copies of any such notices by either Seller or Buyer shall be promptly furnished any assignee hereof.

It is further expressly understood and agreed, that, in the event there should be a reduction in the purchase price of any of said locomotives before delivery, the amount of such reduction shall be applied by the Seller toward the down payment on the purchase of any such locomotive.

The Seller shall deliver said locomotives, freight charges prepaid, to the Buyer at the Buyer's station in Milwaukee, Wisconsin, from time to time, and whenever any of said locomotives are completed and ready for shipment. The Buyer agrees to assume the responsibility and risk of loss in and of the removal of the said locomotives from the Seller's plant at Schenectady, New York, 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 February 28, 1948, 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 February 28, 1948.

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) Twenty-eight Thousand, Two Hundred Thirty-eight Dollars and Fifty Cents ($28,238.50) for each 1000 HP Diesel Electric Switching Locomotive, representing approximately twenty-five per cent (25%) of the purchase price of each such switching 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 Eighty-five Hundredths Per Cent (1.85%) 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 One Thousand, Eight Hundred Sixty-one Dollars and Ninety Cents ($1,861.90), excepting the fortieth (40th) quarter, when the amount shall be One Thousand, Eight Hundred Sixty-one Dollars and Seventy-seven Cents ($1,861.77) for each 1000 HP Diesel Electric Switching Locomotive. In each instance, each of said forty (40) quarterly installment payments includes both principal and interest at the rate of One and Eighty-five Hundredths Per Cent (1.85%) 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.

In addition, in case of any acceptable price increase, made pursuant to Section 1, Buyer shall pay the amount thereof to Seller, in cash, on the date of acceptance of the locomotive or locomotives, to which such price increase is applicable.

The Buyer further covenants and agrees to pay interest at the rate of 5% 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 multiple 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 1.85% 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 substantially as

good 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 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 re-

tained 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.* All payments to be made by the Buyer hereunder shall be free of expenses to the Seller 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) hereafter 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 hereof, all of which expenses and taxes the Buyer assumes and agrees to pay in addition to the above mentioned purchase price of said Equipment. The Buyer shall also 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 in-

volving 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, all as

set forth in said proposal and specification hereinabove referred to; 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, 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 desig-

nated 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.

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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.

(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 obligation to manufacture, or 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

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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 American Locomotive Company. 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 American Locomotive Company, as their respective obligations may be, pursuant to the specifications and proposals referred to in Section (1) hereof and as provided in Section (4) 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, American Locomotive Company, and after any such assignment, the assignee or assignees for the time being

of all of such rights, except with respect to the obligation to manufacture, or to the warranties and indemnities by the Seller specified in Sections (1), (6) and (10) hereof, which shall continue as obligations of American Locomotive Company, as hereinbefore in this Section (11) provided, and shall, in a like manner, and subject to like conditions, extend to and for the benefit of such assignee or assignees of this agreement.

(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.

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 5% 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) *Reorganization Proceedings and Transfers of the 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 the court approving such petition as properly filed and the Trustee or Trustees fail-

ing to adopt this Agreement within thirty (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, and the court approving such petition as properly filed and the Trustee or Trustees failing to adopt this Agreement within thirty (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, if any such proceeding commenced shall apply to and include obligations of the type provided for in this Agreement; 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 the appointment of a receiver, or trustee, or by execution or by any judicial or administrative decree or process, or otherwise, except with the consent of the Seller, and except the appointment of a receiver or trustee and the adoption by him of this Agreement within thirty (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 locomotives, or any of them, and exercise and enforce any and all other remedies as provided by Section 15 hereof.

(15) *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 15 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 15), 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 default 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.

(16) *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.

(17) *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.

(18) *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 the Buyer will 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.

(19) *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.

(20) *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.

(21) *Section Headings.* All section, paragraph or division headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

(22) *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.

(23) *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.

(24) *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, American Locomotive Company 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 pursuant to lawful resolutions, all as of the day, month and year first above written.

AMERICAN LOCOMOTIVE COMPANY,

By P. T. Egbert *Vice-President.*

Attest: J. P. DeLaney *Asst. Secretary.*

Signed, sealed and delivered by American Locomotive Company in the presence of:

F. C. Lahm

R. F. Klein

Attesting Witnesses.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,

By J. W. Severs *Vice President.*

Attest: T. W. Burtness *Secretary.*

Signed, sealed and delivered by Chicago, Milwaukee, St. Paul and Pacific Railroad Company, in the presence of:

John J. Roche

J. P. Hynes

Attesting Witnesses.

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

I, Lee K. Harder, 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 9th day of December, 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 P. T. Egbert and J. P. DeLaney, to me personally known and known to me to be, respectively, a Vice-President and an Asst. Secretary of American Locomotive 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 Asst. Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said P. T. Egbert and J. P. DeLaney 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 P. T. Egbert resides in Schenectady, in the State of New York, and that said J. P. DeLaney resides in Schenectady, in the State of New York; that said P. T. Egbert is a Vice-President and said J. P. DeLaney is an Asst. Secretary of American Locomotive Company, the corporation described in and which executed the within and foregoing instrument in writing; that they, said P. T. Egbert, a Vice-President, and J. P. Delaney, 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 Schenectady, State of New York, this the day and year in this my certificate first above written.

My commission as such Notary Public expires March 30, 1948.

Lee R. Harder

Notary Public in the State of New York, Residing in Schenectady County, No. 293.

Lee K. Harder

Commission Expires March 30, 1948.

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 26th day of November, 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 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 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 said T. W. BURTNESS is Secretary of Chicago, Milwaukee, St. Paul and Pacific Railroad Com-

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pany, the corporation described in and which executed the within and foregoing instrument in writing; that they, said J. W. SEVERS, 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 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 17, 1951.

R. W. Spangenberg

R. W. Spangenberg

Notary Public in and for the State of Illinois, County of Cook.

[redacted]

Form 134

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

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 have custody of impressions of seals of Notaries Public of said County, and to affix the same to certificates of acknowledgments and proofs of deeds and other instruments in writing executed by Notaries Public of said County, and to make and issue certificates of the genuineness of the signatures and of the official character of such Notaries Public; and that I am well acquainted with the handwriting of such Notaries Public, and believe that the signature to the annexed certificate of acknowledgment of [illegible] was genuine, and that the annexed certificate is in due form of law and by the proper officer as to the State of Illinois.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County Court of Cook County, at my office in the City of Chicago, in the said County, this 12th day of December, A.D. 1947.

Michael J. Flynn
County Clerk.

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This Agreement and Assignment dated as of September 12, 1947, by and between **AMERICAN LOCOMOTIVE COMPANY**, a corporation organized and existing under the laws of the State of New York, with its principal office and place of business in the City of New York, N. Y., (hereinafter sometimes referred to as the "Seller"), as party of the first part, and **THE NORTHERN TRUST COMPANY**, a state banking corporation duly organized and existing under the laws of the State of Illinois, 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 September 10, 1947 (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 Two (2) new 1000 HP Diesel Electric Switching Locomotives, bearing Buyer's Road Numbers 1678 and 1679, (hereinafter sometimes referred to as the "Equipment"), all as more particularly described in said Agreement, for an aggregate purchase price of One Hundred Ninety-two Thousand, One Hundred Seventy-seven Dollars ($192,177.00), 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 Twenty-eight Thousand, Two Hundred Thirty-eight Dollars and Fifty Cents ($28,238.50) and increase thereof for each 1000 HP Diesel Electric Switching Locomotive, said initial cash payments 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 manufacturing 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 unit of said Equipment 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 Sixty-seven Thousand Eight Hundred Fifty Dollars ($67,850.00) for each 1000 HP Diesel Electric Switching 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 the unit of equipment 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 said Equipment, a metal plate indicating the Seller as Owner, it being the intention of the parties to provide, by this Assignment, that as each unit of said Equipment is delivered as in said Agreement provided, on or before February 28, 1948, to

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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 NORTHERN TRUST COMPANY, OWNER BY ASSIGNMENT FROM AMERICAN LOCOMOTIVE COMPANY, MANUFACTURER AND PRIOR OWNER."

3. It is understood and agreed, that the obligation of the Assignee to pay the balance of the purchase price of each unit of said Equipment, shall only extend to such units of said Equipment as shall be delivered to and accepted by the Buyer as in said Agreement provided, on or before February 28, 1948, and that the duty of the Assignee to pay the balance of the purchase price of any unit of said Equipment 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 February 28, 1948, and interest thereon, as well as any other rights as may be so assigned hereunder, shall not be

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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 indebtedness 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.

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 all as of the day, month and year first herein written.

AMERICAN LOCOMOTIVE COMPANY,

By P. T. Egbert
P. T. Egbert *Vice-President.*

Attest:

J. P. DeLaney
Assistant Secretary. J. P. DeLaney

Signed, sealed and delivered by American Locomotive Company in the presence of:

F. C. Lahm
R. F. Klein
Attesting Witnesses. F. C. Lahm R. F. Klein

THE NORTHERN TRUST COMPANY,

By C. B. Weaver
C. B. Weaver *Vice-President.*

Attest:

C. H. Bamis
C. H. Bamis *Assistant Secretary.*

Signed, sealed and delivered by The Northern Trust Company in the presence of:

G. R. Nish
J. W. Karraker
Attesting Witnesses. G. R. Nish J. W. Karraker

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

I, Lee K. Harder, 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 9th day of December, 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 P. T. Egbert and J. P. DeLaney, to me personally known and known to me to be, respectively, a Vice-President and an Asst. Secretary of American Locomotive 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 Asst. Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said P. T. Egbert and J. P. DeLaney 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 P. T. Egbert resides in Schenectady, in the State of New York, and that said J. P. DeLaney resides in Schenectady, in the State of New York; that said P. T. Egbert is a Vice-President and said J. P. DeLaney is an Asst. Secretary of American Locomotive Company, the corporation described in and which executed the within and foregoing instrument in writing; that they, said P. T. Egbert, a Vice-President, and J. P. Delaney, an Asst. Secre-

tary, 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 Schenectady, State of New York, this the day and year in this my certificate first above written.

My commission as such Notary Public expires March 30, 1948.

Lee K. Harder
Notary Public in the State of New York, Residing in Schenectady County, No. 295. Lee K. Harder

Commission Expires March 30, 1948.

COUNTY OF SCHENECTADY
CLERK'S OFFICE
STATE OF NEW YORK

I, CARROLL A. GARDNER, Clerk of the County of Schenectady, and also Clerk of the Supreme and County Courts being Courts of Record held therein, do hereby certify that Lee K. Harder whose name is subscribed to the Certificate of acknowledgment or proof of the annexed instrument, and thereon written, or whose name is subscribed to the annexed jurat, was at the time of taking such acknowledgment, or proof, or of administering such oath or affirmation, a Notary Public — Commissioner of Deeds in and for the said County of Schenectady, duly commissioned and sworn and authorized by the laws of the State of New York to take the acknowledgments and proofs of deeds or conveyances for land, tenements, or hereditaments and to administer oaths or affirmations in said County. And further, that I am well acquainted with the handwriting of said officer and verily believe that the signature to said jurat or certificate of acknowledgment or proof is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Courts and County, this 9th day of Dec. 1947

Carroll A. Gardner Clerk

8822 By ..... Deputy Clerk

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in and which executed the within and foregoing instrument in writing; that the said C. B. WEAVER, Vice-President, and C. H. SAMIS, 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 Vice President and 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 first above written.

My commission as such Notary Public expires June 5 1944

Harold R. Shuler
Notary Public in and for the State of Illinois, County of Cook.

State of Wisconsin } ss.
DEPARTMENT OF STATE

Received this 13TH day of DECEMBER A.D. 19 47 at 10:00 o'clock A.M. and recorded in Vol. 40 of RAILROAD MORTGAGES on pages 218-237, inclusive.

Assistant Secretary of State

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STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, Harold R. Shuler, 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 12th day of December, 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 C. B. WEAVER and C. H. SAMIS

to me personally known and known to me to be, respectively, a Vice-President and Assistant Secretary of The Northern Trust 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 Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said C. B. WEAVER and C. H. SAMIS, 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. B. WEAVER resides in Glen Ellyn in the State of Illinois, and that said C. H. SAMIS resides in Evanston in the State of Illinois; that said C. B. WEAVER is a Vice-President and said C. H. SAMIS is an Assistant Secretary of The Northern Trust Company, the corporation described

(Fee - $4.45)

CONSOLIDATION PROCEEDINGS
OF
CENTRAL TRUST COMPANY OF ILLINOIS
AND
CHICAGO TRUST COMPANY
UNDER NAME OF
CENTRAL REPUBLIC BANK AND TRUST COMPANY
DATED, JULY 25, 1931

KNOW ALL MEN BY THESE PRESENTS:

That CENTRAL TRUST COMPANY OF ILLINOIS, a corporation organized and existing under and by virtue of the general banking laws of the State of Illinois, and PHILIP R. CLARKE, the President of said Central Trust Company of Illinois, do hereby CERTIFY as follows:

First. That on the 25th day of July, 1931, at the hour of 10 o'clock A. M., a special meeting of the stockholders of said Central Trust Company of Illinois was duly and regularly convened in the Board Room of said corporation, 208 South La Salle Street, in the City of Chicago, County of Cook and State of Illinois, pursuant to due notice, and that there were present at said meeting in person and/or by duly authorized proxies the owners and holders of more than two-thirds of the entire outstanding stock of said corporation.

Second. That there was thereupon submitted to said stockholders' meeting of said Central Trust Company of Illinois a proposition that said Central Trust Company of Illinois should consolidate with Chicago Trust Company in the manner and upon the terms contained in the preamble and resolutions hereinafter set out at length, and there was thereupon presented to said meeting of the stockholders of said Central Trust Company of Illinois and submitted to a vote of the stockholders of said corporation the following preamble and resolutions and the proposition therein contained, to wit:

WHEREAS, Central Trust Company of Illinois and Chicago Trust Company are corporations duly organized and existing under and by virtue of the general banking laws of the State of Illinois, and are duly authorized to consolidate with each other into a single corporation:

NOW, THEREFORE, BE IT RESOLVED by the stockholders of CENTRAL TRUST COMPANY OF ILLINOIS as follows:

1. That the stockholders of Central Trust Company of Illinois do hereby adopt the proposition that said Central Trust Company of Illinois shall be consolidated with said Chicago Trust Company, and accordingly do hereby resolve that said Central Trust Company of Illinois and Chicago Trust Company shall be, and they are hereby, consolidated into a single corporation upon and pursuant to the following terms and conditions, to wit:

(*a*) The name of the Consolidated Corporation shall be "Central Republic Bank and Trust Company."

(*b*) The business of the Consolidated Corporation shall be carried on at 208 South La Salle Street, in the City of Chicago, County of Cook and State of Illinois.

(*c*) The capital stock of the Consolidated Corporation shall be Fourteen Million Dollars ($14,000,000), and the Consolidated Corporation will, in addition, begin business with a surplus of Ten Million Dollars ($10,000,000) and undivided profits of Four Million Dollars ($4,000,000).

(*d*) The amount of each share of the capital stock of the Consolidated Corporation shall be One Hundred Dollars ($100).

(*e*) The number of shares of stock of the Consolidated Corporation shall be One Hundred Forty Thousand (140,000).

(*f*) The time for which the Consolidated Corporation shall continue shall be nine hundred ninety-nine years.

(*g*) Until changed or repealed in the manner therein provided the by-laws of the present Central Trust Company of Illinois shall be the by-laws of the Consolidated Corporation, except in so far as the same are inconsistent with these resolutions.

(*h*) Until changed in the manner now or hereafter provided by law the number of Directors of the Consolidated Corporation shall be Fifty-two (52). Until the next annual meeting of the stockholders of said Consolidated Corporation, and until the election and qualification of their successors, the Directors of said Consolidated Corporation shall be as follows:

DARRELL S. BOYD	GEORGE A. EDDY	EDWARD N. HURLEY	CONRAD H. POPPENHUSEN
JOSEPH H. BRIGGS	DAVID R. FORGAN	W. J. JACKSON	T. W. ROBINSON
GEORGE T. BUCKINGHAM	GEORGE F. GETZ	JAMES S. KEMPER	RAYMOND W. STEVENS
DANIEL H. BURNHAM	JOHN GOODRIDGE	F. J. LEWIS	CHARLES R. STREET
GEORGE R. CARR	JAMES E. GORMAN	JOHN A. LYNCH	LOUIS F. SWIFT
CHARLES S. CASTLE	JAMES E. GREENEBAUM	JOHN A. MCCORMICK	LUCIUS TETER
HARLEY L. CLARKE	M. E. GREENEBAUM	C. M. MODERWELL	EUGENE V. R. THAYER
PHILIP R. CLARKE	RICHARD C. HALL	ROBERT H. MORSE	RAWLEIGH WARNER
HENRY M. DAWES	SAMUEL M. HASTINGS	JOHN W. O'LEARY	HARRY P. WEBER
RUFUS C. DAWES	CHARLES W. HIGLEY	JOSEPH E. OTIS	A. G. WELLS
WILLIAM R. DAWES	HENRY H. HILTON	JOSEPH E. OTIS, JR.	JOHN E. WILDER
GEORGE W. DIXON	JAMES M. HOPKINS	H. E. OTTE	WALTER H. WILSON
GEORGE B. DRYDEN	HARRY B. HURD	BURTON F. PEEK	MARK W. WOODS

(*i*) Until changed by the Directors of the Consolidated Corporation the officers of the present Central Trust Company of Illinois shall be and remain as officers of the Consolidated Corporation.

(*j*) The present outstanding stock of Central Trust Company of Illinois, consisting of One Hundred Twenty Thousand (120,000) shares of the par value of One Hundred Dollars ($100) each, shall be surrendered to the Consolidated Corporation and there shall be issued in exchange therefor Eighty Thousand (80,000) shares of capital stock of the Consolidated Corporation. The present outstanding stock of Chicago Trust Company, consisting of Thirty-one Thousand (31,000) shares of the par value of One Hundred Dollars ($100) each, shall be surrendered to the Consolidated Corporation and there shall be issued in exchange therefor Sixty Thousand (60,000) shares of capital stock of the Consolidated Corporation.

(*k*) The consolidated corporation shall possess and be vested with all of the rights, privileges, powers, franchises, licenses, estate, effects, things in action, moneys, debts due upon whatever account, trusts, and property, real, personal and mixed, of every kind and character of said Chicago Trust Company and said Central Trust Company of Illinois, and shall be subject to all of their respective debts, liabilities and duties.

(*l*) As a part of the terms of consolidation,

(1) The National Republic Company, a corporation of the State of Illinois, which acquired from Chicago Trust Company certain of its assets not going into the Consolidated Corporation, has entered into an agreement embodying certain guaranties made by The National Republic Company for the benefit of the Consolidated Corporation in respect of certain assets going into the Consolidated Corporation and against certain undisclosed and/or other liabilities to which under some circumstances the Consolidated Corporation may be subject, and

(2) Central-Illinois Company, a corporation of the State of Illinois, which acquired from Central Trust Company of Illinois certain of its assets not going into the Consolidated Corporation, has entered into an agreement embodying certain guaranties made by Central-Illinois Company for the benefit of the consolidated corporation in respect of certain assets going into the Consolidated Corporation and against certain undisclosed and/or other liabilities to which under some circumstances the Consolidated Corporation may be subject.

2. That the Certificate of Consolidation required by law be forthwith prepared, verified by the affidavit of the President of Central Trust Company of Illinois, and under the seal of the corporation, and be filed in the office of the Auditor of Public Accounts, and a like Certificate filed for record in the office of the Recorder of Deeds of Cook County, Illinois, in which said county the principal business office of said Central Trust Company of Illinois is located.

3. That notice of such consolidation be forthwith published in the manner provided by law and that the officers of said Central Trust Company of Illinois take all such steps as may be necessary or proper to carry into effect such consolidation.

Third. That more than two-thirds of all the votes represented by the whole stock of said Central Trust Company of Illinois were cast in favor of said preamble and resolutions and the proposition therein contained and said preamble and resolutions and the proposition therein contained were accordingly adopted.

IN WITNESS WHEREOF, said Central Trust Company of Illinois and said PHILIP R. CLARKE, President of said Central Trust Company of Illinois, have made and signed this Certificate in duplicate and verified the same by the affidavit of the President of said Central Trust Company of Illinois and under the seal of the corporation, to the end that the same may be filed in the office of the Auditor of Public Accounts of the State of Illinois and in the office of the Recorder of Deeds of the County of Cook and State of Illinois, in which County is located the principal business office of said corporation, all on this 25th day of July, 1931.

CENTRAL TRUST COMPANY OF ILLINOIS,

By PHILIP R. CLARKE,
President.

Attest:

WM. W. HINSHAW, JR.,
Secretary.

PHILIP R. CLARKE,
President of Central Trust Company of Illinois.

CENTRAL TRUST COMPANY OF ILLINOIS CORPORATE SEAL 1902

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STATE OF ILLINOIS } ss.
COUNTY OF COOK }

I, Philip R. Clarke, being duly sworn, declare on oath that I am the President of Central Trust Company of Illinois, mentioned in the foregoing certificate, and that the statements made therein are true in substance and in fact.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of said corporation to be affixed, this 25th day of July, A. D. 1931.

PHILIP R. CLARKE.

Subscribed and sworn to before me this 25th day of July A. D. 1931.

ALFRED EVERS,
Notary Public.

ALFRED EVERS NOTARY PUBLIC COOK COUNTY, ILLS.

KNOW ALL MEN BY THESE PRESENTS:

That CHICAGO TRUST COMPANY, a corporation organized and existing under and by virtue of the general banking laws of the State of Illinois, and JOHN W. O'LEARY, the President of said Chicago Trust Company, do hereby certify as follows:

First. That on the 25th day of July, 1931, at the hour of 10:00 o'clock A. M., a special meeting of the stockholders of said Chicago Trust Company was duly and regularly convened in the Board Room of said corporation, 134 South La Salle Street, in the City of Chicago, County of Cook and State of Illinois, pursuant to due notice, and that there were present at said meeting in person and/or by duly authorized proxies the owners and holders of more than two-thirds of the entire outstanding stock of said corporation.

Second. That there was thereupon submitted to said stockholders' meeting of said Chicago Trust Company a proposition that said Chicago Trust Company should consolidate with Central Trust Company of Illinois in the manner and upon the terms contained in the preamble and resolutions hereinafter set out at length, and there was thereupon presented to said meeting of the stockholders of said Chicago Trust Company and submitted to a vote of the stockholders of said corporation the following preamble and resolutions and the proposition therein contained, to wit:

WHEREAS, Chicago Trust Company and Central Trust Company of Illinois are corporations duly organized and existing under and by virtue of the general banking laws of the State of Illinois, and are duly authorized to consolidate with each other into a single corporation:

NOW, THEREFORE, BE IT RESOLVED by the stockholders of Chicago Trust Company as follows:

1. That the stockholders of Chicago Trust Company do hereby adopt the proposition that said Chicago Trust Company shall be consolidated with Central Trust Company of Illinois, and accordingly do hereby resolve that said Chicago Trust Company and said Central Trust Company of Illinois shall be and they are hereby consolidated into a single corporation upon and pursuant to the following terms and conditions, to wit:

(*a*) The name of the Consolidated Corporation shall be "Central Republic Bank and Trust Company."

(*b*) The business of the Consolidated Corporation shall be carried on at 208 South La Salle Street, in the City of Chicago, County of Cook and State of Illinois.

(*c*) The capital stock of the Consolidated Corporation shall be Fourteen Million Dollars ($14,000,000), and the Consolidated Corporation will, in addition, begin business with a surplus of Ten Million Dollars ($10,000,000) and undivided profits of Four Million Dollars ($4,000,000).

(*d*) The amount of each share of the capital stock of the Consolidated Corporation shall be One Hundred Dollars ($100).

(*e*) The number of shares of stock of the Consolidated Corporation shall be One Hundred Forty Thousand (140,000).

(*f*) The time for which the Consolidated Corporation shall continue shall be nine hundred ninety-nine years.

(*g*) Until changed or repealed in the manner therein provided the by-laws of the present Central Trust Company of Illinois shall be the by-laws of the Consolidated Corporation, except in so far as the same are inconsistent with these resolutions.

(*h*) Until changed in the manner now or hereafter provided by law the number of Directors of the Consolidated Corporation shall be Fifty-two (52). Until the next annual meeting of the stockholders of said Consolidated Corporation, and until the election and qualification of their successors, the Directors of said Consolidated Corporation shall be as follows:

DARRELL S. BOYD	GEORGE A. EDDY	EDWARD N. HURLEY	CONRAD H. POPPENHUSEN
JOSEPH H. BRIGGS	DAVID R. FORGAN	W. J. JACKSON	T. W. ROBINSON
GEORGE T. BUCKINGHAM	GEORGE F. GETZ	JAMES S. KEMPER	RAYMOND W. STEVENS
DANIEL H. BURNHAM	JOHN GOODRIDGE	F. J. LEWIS	CHARLES R. STREET
GEORGE R. CARR	JAMES E. GORMAN	JOHN A. LYNCH	LOUIS F. SWIFT
CHARLES S. CASTLE	JAMES E. GREENEBAUM	JOHN A. MCCORMICK	LUCIUS TETER
HARLEY L. CLARKE	M. E. GREENEBAUM	C. M. MODERWELL	EUGENE V. R. THAYER
PHILIP R. CLARKE	RICHARD C. HALL	ROBERT H. MORSE	RAWLEIGH WARNER
HENRY M. DAWES	SAMUEL M. HASTINGS	JOHN W. O'LEARY	HARRY P. WEBER
RUFUS C. DAWES	CHARLES W. HIGLEY	JOSEPH E. OTIS	A. G. WELLS
WILLIAM R. DAWES	HENRY H. HILTON	JOSEPH E. OTIS, JR.	JOHN E. WILDER
GEORGE W. DIXON	JAMES M. HOPKINS	H. E. OTTE	WALTER H. WILSON
GEORGE B. DRYDEN	HARRY B. HURD	BURTON F. PEEK	MARK W. WOODS

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(i) Until changed by the Directors of the Consolidated Corporation the officers of the present Central Trust Company of Illinois shall be and remain as officers of the Consolidated Corporation.

(j) The present outstanding stock of Central Trust Company of Illinois, consisting of One Hundred Twenty Thousand (120,000) shares of the par value of One Hundred Dollars ($100) each, shall be surrendered to the Consolidated Corporation and there shall be issued in exchange therefor Eighty Thousand (80,000) shares of capital stock of the Consolidated Corporation. The present outstanding stock of Chicago Trust Company, consisting of Thirty-one Thousand (31,000) shares of the par value of One Hundred Dollars ($100) each, shall be surrendered to the Consolidated Corporation and there shall be issued in exchange therefor Sixty Thousand (60,000) shares of capital stock of the Consolidated Corporation.

(k) The Consolidated Corporation shall possess and be vested with all of the rights, privileges, powers, franchises, licenses, estate, effects, things in action, moneys, debts due upon whatever account, trusts, and property, real, personal and mixed, of every kind and character of said Chicago Trust Company and said Central Trust Company of Illinois, and shall be subject to all of their respective debts, liabilities and duties.

(l) As a part of the terms of consolidation

(1) The National Republic Company, a corporation of the State of Illinois, which acquired from Chicago Trust Company certain of its assets not going into the Consolidated Corporation, has entered into an agreement embodying certain guaranties made by The National Republic Company for the benefit of the Consolidated Corporation in respect of certain assets going into the Consolidated Corporation and against certain undisclosed and/or other liabilities to which under some circumstances the Consolidated Corporation may be subject, and

(2) Central-Illinois Company, a corporation of the State of Illinois, which acquired from Central Trust Company of Illinois certain of its assets not going into the Consolidated Corporation has entered into an agreement embodying certain guaranties made by Central-Illinois Company for the benefit of the Consolidated Corporation in respect of certain assets going into the Consolidated Corporation and against certain undisclosed and/or other liabilities to which under some circumstances the Consolidated Corporation may be subject.

2. That the Certificate of Consolidation required by law be forthwith prepared, verified by the affidavit of the President of Chicago Trust Company, and under the seal of the corporation, and be filed in the office of the Auditor of Public Accounts and a like Certificate filed for record in the office of the Recorder of Deeds of Cook County, Illinois, in which said county the principal business office of said Chicago Trust Company is located.

3. That notice of such consolidation be forthwith published in the manner provided by law and that the officers of said Chicago Trust Company take all such steps as may be necessary or proper to carry into effect such consolidation.

Third. That more than two-thirds of all the votes represented by the whole stock of said Chicago Trust Company were cast in favor of said preamble and resolutions and the proposition therein contained and said preamble and resolutions and the proposition therein contained were accordingly adopted.

IN WITNESS WHEREOF, said Chicago Trust Company and said John W. O'Leary, President of said Chicago Trust Company, have made and signed this Certificate in duplicate and verified the same by the affidavit of the President of said Chicago Trust Company and under the seal of the corporation, to the end that the same may be filed in the office of the Auditor of Public Accounts of the State of Illinois and in the office of the Recorder of Deeds of the County of Cook and State of Illinois, in which County is located the principal business office of said corporation, all on this 25th day of July, 1931.

CHICAGO TRUST COMPANY,

By JOHN W. O'LEARY,
President.

Attest:

WILLIAM T. ANDERSON,
Secretary.

CHICAGO TRUST COMPANY CORPORATE SEAL 1902 CHICAGO, ILLINOIS

JOHN W. O'LEARY,
President of Chicago Trust Company.

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STATE OF ILLINOIS } ss.
COUNTY OF COOK }

I, John W. O'Leary, being duly sworn, declare on oath that I am the President of Chicago Trust Company, mentioned in the foregoing certificate, and that the statements made therein are true in substance and in fact.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of said corporation to be affixed, this 25th day of July, A. D. 1931.

JOHN W. O'LEARY.

Subscribed and sworn to before me this 25th day of July, A. D. 1931.

ALFRED EVERS,
Notary Public.

ALFRED EVERS NOTARY PUBLIC COOK COUNTY, ILLS.

STATE OF ILLINOIS
Office of
Auditor of Public Accounts

Number 1672 Springfield, July 25, 1931.

To all to whom these presents shall come, Greeting:

Whereas, Proper evidence has been filed in the office of the Auditor of Public Accounts, showing the organization of Central Republic Bank and Trust Company, located at 208 South LaSalle Street, Chicago, Cook County, Illinois, by virtue of the consolidation of Central Trust Company of Illinois and Chicago Trust Company, both located at Chicago, County of Cook and State of Illinois, under and in accordance with the provisions of "An Act to revise the law with relation to banks and banking," approved June 23, 1919, in force December 1, 1920, as amended by Act approved June 28, 1923, in force December 1, 1924, as amended by Act approved June 4, 1929, in force December 2, 1930.

And Whereas, It appears from the evidence furnished the Auditor as required by law, that the capital stock of said association, amounting to Fourteen Million Dollars, surplus of said association, amounting to Ten Million Dollars, and reserve for operating expenses of said association, amounting to Four Million Dollars, has been fully paid in, and is now in the custody of the proper officers of said association.

Now, Therefore, I, Oscar Nelson, Auditor of Public Accounts of the State of Illinois, by virtue of the power vested in me by the act aforesaid, do hereby authorize said Central Republic Bank and Trust Company to commence business as a Bank or Banking Association under the provisions of said act, for the purpose of discount and deposit and to buy and sell exchange and to do a general banking business, excepting the issuing of bills to circulate as money, and with power to loan money on personal and real estate security, and to accept and execute trusts, for a term of Nine Hundred Ninety-nine years, unless sooner terminated by due process of law.

In Testimony Whereof, I hereunto subscribe my name and affix the seal of my office, the day and year first above written.

(SEAL)
Auditor's Office
Illinois

OSCAR NELSON,
Auditor of Public Accounts.

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STATE OF ILLINOIS
OFFICE OF
Auditor of Public Accounts

Springfield, January 30, 1948

To All to Whom These Presents Shall Come, Greeting:

I, Arthur C. Lueder, as Auditor of Public Accounts of the State of Illinois, do hereby certify that the foregoing, consisting of seven (7) printed sheets, is a true and correct copy of Certificate of Proceedings had at a Special Meeting of the Stockholders of CENTRAL TRUST COMPANY OF ILLINOIS, located at CHICAGO, County of COOK and State of Illinois, held on the twenty-fifth day of July, 1931; copy of Certificate of Proceedings had at a Special Meeting of the Stockholders of CHICAGO TRUST COMPANY, located at CHICAGO, County of COOK and State of Illinois, held on the twenty-fifth day of July, 1931; and copy of certificate to commence business issued on July 25, 1931, to CENTRAL REPUBLIC BANK AND TRUST COMPANY, located at 208 South LaSalle Street, CHICAGO, COOK COUNTY, ILLINOIS, by virtue of the consolidation of CENTRAL TRUST COMPANY OF ILLINOIS and CHICAGO TRUST COMPANY, both located at CHICAGO, County of COOK and State of Illinois; as now in my office, legally in my keeping.

IN TESTIMONY WHEREOF, I hereunto subscribe my name and affix the seal of my office, this thirtieth day of January, A.D. 1948.

Arthur C. Lueder
Auditor of Public Accounts.

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State of Wisconsin)
DEPARTMENT OF STATE) ss.
Received this 2nd day of February A. D. 1948 at 2:00 o'clock P. M. and recorded in Vol. 40 of Railroad Mortgages on pages 238-243 incl.

INDEXED

CERTIFICATES RELATING TO CHANGE OF NAME OF CENTRAL REPUBLIC BANK AND TRUST COMPANY TO CENTRAL REPUBLIC TRUST COMPANY DATED, NOVEMBER 26, 1932

STATE OF ILLINOIS
OFFICE OF
AUDITOR OF PUBLIC ACCOUNTS

Springfield, November 26, 1932.

To All to Whom These Presents Shall Come, Greeting:

Whereas, Proper evidence has been filed in the office of the Auditor of Public Accounts, showing action of the stockholders of Central Republic Bank and Trust Company, located at Chicago, County of Cook and State of Illinois, at a Special Meeting held on the Nineteenth day of November, 1932, in the matter of changing the name of said Bank from *Central Republic Bank and Trust Company* to *Central Republic Trust Company*, in accordance with the provisions of Section 12 of an Act of the Illinois Legislature entitled, "An Act to revise the law with relation to banks and banking," approved June 23, 1919, in force December 1, 1920, as amended by Act approved June 28, 1923, in force December 1, 1924, as amended by Act approved June 4, 1929, in force December 2, 1930;

And Whereas, It appears from the evidence submitted to the Auditor of Public Accounts as required by law, that the provisions of Section 12 of said Act with relation to change of name have been complied with by the stockholders;

Now, Therefore, I, Oscar Nelson, Auditor of Public Accounts of the State of Illinois, by virtue of the power vested in me by the Act aforesaid, do hereby approve the aforesaid change of name and the same shall be effective upon filing for record the resolution of the stockholders and this certificate.

In Testimony Whereof, I hereunto subscribe my name and affix the seal of my office, the day and year first above written.

Oscar Nelson,
Auditor of Public Accounts.

(Seal)
Auditor's Office
Illinois

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STATE OF ILLINOIS
OFFICE OF
AUDITOR OF PUBLIC ACCOUNTS

Springfield, December 19, 1932

I, Oscar Nelson, as Auditor of Public Accounts, of the State of Illinois, do hereby certify that the foregoing is a true and complete copy of the Certificate of Approval of the Auditor of Public Accounts approving the change in the name of Central Republic Bank and Trust Company, located in Chicago, Illinois, from such name to Central Republic Trust Company.

In Testimony Whereof, I hereunto subscribe my name and affix the seal of my office, the day and year first above written.

Auditor of Public Accounts of the State of Illinois.

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I, [illegible], do hereby certify that I am the duly elected, qualified and acting Asst. Secretary of CENTRAL REPUBLIC TRUST COMPANY, a corporation organized and existing under the laws of the State of Illinois (whose corporate name was formerly Central Republic Bank and Trust Company).

As such Asst. Secretary I do further certify that at a special meeting of the stockholders of said corporation duly called, convened and held on November 19, 1932, the following resolution was duly and regularly adopted by the stockholders of said corporation by votes representing more than two-thirds of all the stock of said corporation:

"BE IT RESOLVED by the stockholders of CENTRAL REPUBLIC BANK AND TRUST COMPANY that the name of this corporation shall be and it is hereby changed from 'Central Republic Bank and Trust Company' to 'Central Republic Trust Company.'"

And as such Asst. Secretary I do further certify that said resolution and the certificate of approval of the Auditor of Public Accounts of the State of Illinois approving the change of name referred to in said resolution were duly filed for record on November 28, 1932, in the Office of the Recorder of Deeds of Cook County, Illinois, being the County wherein is located the principal business office of said corporation, and that said resolution was recorded in said office in Book 777, at page 343, and said Auditor's certificate in Book 777, at page 345.

IN WITNESS WHEREOF, I have hereunto set my hand as such Asst. Secretary and the seal of said corporation this 21st day of December, 1932.

[illegible]
Asst. Secretary of
Central Republic Trust Company.

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State of Wisconsin) ss.
DEPARTMENT OF STATE
Received this 2nd day of February A. D. 1948 at 2:00 o'clock P. M. and recorded in Vol. 40 of Railroad Mortgages on pages 244-245 incl.

[illegible]

(Fee $6.85)

PROCEEDINGS FOR REORGANIZATION
OF
CHICAGO NORTH SHORE AND MILWAUKEE RAILROAD COMPANY
UNDER CHAPTER X OF THE BANKRUPTCY LAWS OF THE UNITED STATES
AND APPOINTMENT OF
JOHN B. GALLAGHER AND EDWARD J. QUINN, TRUSTEES
DATED, MARCH 29, 1943

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

Proceedings for reorganization under Chapter X
of the Bankruptcy Laws of the United States

IN THE MATTER OF

CHICAGO NORTH SHORE AND MILWAUKEE RAILROAD COMPANY, DEBTOR. — No. 77853

O R D E R

This cause coming on for further hearing upon the motion of the petitioners for appointment of Trustees following confirmation by the United States Circuit Court of Appeals for the Seventh Circuit, upon appeal, of the jurisdiction of this Court in the within proceeding, petition for certiorari having been denied by the United States Supreme Court, this Court in its order so appealed from having approved the petition as having been properly filed and in good faith but having deferred appointment of Trustees pending appeal on the question of jurisdiction; and the Court having heard the arguments and representations of counsel and being fully advised in the premises, finds:

1. That notice of this motion and the hearing thereon has been duly and properly given to the aforesaid Debtor and to the following mentioned counsel of record in the Equity receivership cause entitled "Continental National Bank and Trust Company of Chicago, as Trustee, Plaintiff, vs. Chicago North Shore and Milwaukee Railroad Company, et al., Defendants, Consolidated Cause in Equity (12299) (16156) No. 16156", now pending

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in this Court and assigned to the calendar of Honorable Michael L. Igoe, one of the Judges of said Court, to-wit:

Mayer, Meyer, Austrian & Platt, Solicitors for Continental National Bank and Trust Company of Chicago; Whitman, Miller & Coon, Solicitors for The American Brake Shoe and Foundry Company; Addison L. Gardner, Solicitor for Chicago North Shore and Milwaukee Railroad Company; Pam and Hurd, Solicitors for City National Bank and Trust Company of Chicago; Kirkland, Fleming, Green, Martin & Ellis, Solicitors for The American National Bank and Trust Company, Trustee; Poppenhusen, Johnston, Thompson & Raymond, Solicitors for W. R. Stuart, et al.; Dickinson, Sprowl, Norville & James, Solicitors for Reconstruction Finance Corporation; Max Swiren, Solicitor for Morris, et al., as Trustees; Robert F. Carney, Solicitor for the Chicago North Shore and Milwaukee Railroad Company Independent Mortgage Bondholders' Committee; O. David Zimring, Solicitor for Amalgamated Association of Street, Electric Railway and Motor Coach Employes of America; Leo J. Hassenauer, Solicitor for Brotherhood of Railroad Trainmen, Brotherhood of Locomotive Firemen and Enginemen and Order of Railroad Telegraphers, and Ralph R. Bradley, Solicitor for the Receivers of Chicago North Shore and Milwaukee Railroad Company, and also upon all parties of record in the within proceeding.

2. That the said Debtor is a corporation organized and existing under the laws of the State of Illinois, and has its principal office and place of business in the City of Chicago, Illinois, and that said office and place of business was so located during the six months next preceding the filing of said petition.

3. That the Debtor is an interurban electric railway incorporated under the general railroad laws of the State of Illinois, the properties and operations of which extend from the City of Chicago, in the State of Illinois, to the City of Milwaukee, in the State of Wisconsin, and over which persons and property are transported for hire both in intrastate and interstate commerce operations; that some phases of the operations of its railroad system and property are subject to the regulatory jurisdiction of the Illinois Commerce Commission, some phases to the Public Service Commission of Wisconsin and some phases to the Interstate Commerce Commission, the said Illinois Commerce Commission, however, having regulatory jurisdiction in the matter of the issuance of securities; that its entrance into the City of Chicago is over the same tracks used by the Chicago Rapid Transit Company, which performs the elevated railway service in Chicago and adjacent suburbs, such tracks being used in common by both carriers.

4. That the operation of Debtor's railroad system and properties have been conducted under the custody and direction of this Court in the aforementioned receivership proceedings since September 30, 1932; that the Receivers were first appointed on said date in a proceeding entitled "The American Brake Shoe and Foundry Company, a corporation, Complainant, vs. Chicago North Shore and Milwaukee Railroad Company, Defendant, In Equity No. 12299"; that subsequently proceedings to foreclose the First and Refunding Mortgage of Debtor, dated October 1, 1924, were instituted by the City National Bank and Trust Company and Arthur T. Leonard, as Successor Trustees under said mortgage indenture, and the causes consolidated under the original title; that still later,

proceedings to foreclose the First Mortgage of Debtor, dated July 1, 1916, were instituted by the Continental National Bank and Trust Company of Chicago, Trustee, and all three cases were consolidated under the title "Continental National Bank and Trust Company of Chicago, as Trustee, Plaintiff, vs. Chicago North Shore and Milwaukee Railroad Company, et al., Defendants, Consolidated Cause in Equity (12299) (16156) No. 16156."

5. That the indebtedness of Chicago North Shore and Milwaukee Railroad Company, the above named Debtor, liquidated as to amount and not contingent as to liability, is over Two Hundred and Fifty Thousand Dollars ($250,000).

6. That Trustees should be appointed for the Debtor Estate.

7. That JOHN B. GALLAGHER and EDWARD J. QUINN are disinterested persons within the meaning of Section 158 of Chapter X of the Bankruptcy Reorganization Act and are qualified to be the Trustees herein.

8. That during all of the time the properties of the Debtor have been operated in receivership under the jurisdiction and direction of this Court, the individuals appointed by this Court as Receivers thereof were the same individuals who at the same time were acting as Receivers or Trustees of the aforementioned Chicago Rapid Transit Company, and the Court, from such experience, is convinced that it is to the best interests of the Debtor herein and its creditors and also in the public interest that there be unity in the direction of management and operations of said rail carriers using the same tracks in common as aforesaid, and to that end that Bernard J. Fallon, who is now acting as one of the Receivers of the Debtor as well

as Co-Trustee of said Chicago Rapid Transit Company, and who, throughout said receivership proceedings of Debtor and the receivership and reorganization proceedings of said Chicago Rapid Transit Company, has been in charge of operations, as Executive Officer of the respective receivers and trustees of said companies, should be employed to operate the business and manage the property of Debtor.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. That pursuant to said Chapter X of the Bankruptcy Laws of the United States JOHN B. GALLAGHER and EDWARD J. QUINN (hereinafter referred to as Trustees) be and they hereby are appointed Trustees by this Court of and for Chicago North Shore and Milwaukee Railroad Company, a corporation, Debtor herein, and of the railroad system and all and singular the properties, assets, franchises, rights, municipal grants, contracts, monies, credits, choses in action, and effects of the Debtor, including, as part of such property, all railroads, tracks, stations, rights-of-way, easements, yards, terminals, equipment, offices, tools, machinery, furniture, fixtures, materials, supplies, books of account, records and other books, papers and accounts, stocks, bonds, securities, deeds, muniments of title, leaseholds, interests, operating contracts and agreements, bills and accounts receivable, and rents, issues, dividends, profits and income accrued, accruing and to accrue from said properties, assets and business, and all other properties and assets, real, personal and mixed, of whatsoever kind and description and wheresoever situated, and without limiting the generality of the foregoing, specifically including all of the foregoing described properties, assets and business which now are in the possession or in the control of A. A. Sprague and Bernard J. Fallon, as Receivers of Debtor

(herein referred to as "Receivers") in the cause pending in this Court entitled "Continental National Bank and Trust Company of Chicago, as Trustee, Plaintiff, vs. Chicago North Shore and Milwaukee Railroad Company, et al., Defendants, Consolidated Cause in Equity (12299) (16156) No. 16156."

2. That the said Trustees shall within ten days after the entry of this order and before entering upon the performance of their duties, execute and file with the Clerk of this Court their joint and several bond or separate individual bond to the United States of America, with one or more sureties to be approved by this Court, or one of the Judges hereof, in the sum of Twenty-five Thousand Dollars ($25,000.), conditioned that such Trustees will obey such orders as this Court may make in this proceeding, and that they will faithfully and truly account for all monies and assets which shall come into their hands and possession, and shall in all respects faithfully perform all of their official duties as Trustees.

3. That said Trustees as of the close of business on March 31,1943, or as soon thereafter as their said bond has been approved and filed, are hereby vested with full power and authority to, and hereby are instructed to take all of said property, assets and business into their exclusive possession and control; and hereby are vested with all of the additional rights and powers not inconsistent with said Chapter X as a receiver or receivers in equity would have if appointed by a court of the United States for the property of the Debtor; that said Trustees further are granted all of the powers and authority not inconsistent with said Chapter X of the Bankruptcy Laws of the United States which heretofore have been expressly conferred upon the aforementioned Receivers by this Court in said Equity Receivership proceeding, Consolidated Cause No. 16156; and the said Trustees, without limiting the generality of the foregoing para-

graphs hereof and of the foregoing portion of this paragraph, are hereby authorized and directed to take possession of all and singular the railroad system, property and rights of the Debtor wheresoever situated or found and to continue the operation of the business of Debtor to the end that the operation of said railroad system shall be continued, and the public duties obligatory upon the Debtor and said Receivers shall in all respects be discharged; to exercise the authority and franchises of the Debtor, and discharge its public duties; to preserve and protect said railroad system and property in proper condition and repair; to protect the rights and titles of the Debtor in and to said property and assets, or any part thereof; to make such repairs to said railroad system and property as in the judgment of said Trustees are proper and necessary for the maintenance and for the safe and economical conduct of the business of the Debtor; to keep such property insured to such extent as the said Trustees may deem advisable; to enter into such contracts as may be necessary for the proper maintenance and operation of the business of the Debtor; to purchase all supplies, goods and materials necessary for the transaction of said business and the maintenance and operation of said property and business; to retain, employ, discharge and fix the compensation of all necessary officers, agents, managers, superintendents, employes, laborers, attorneys and counsel for the due administration and operation of said property and business; to collect and receive the income, dividends, rents, revenues, tolls, issues and profits of said property and business; and to collect as far as possible all outstanding accounts, choses in action and credits due or to become due or owing to the Debtor, or to said Receivers; and out of the funds coming into their hands and available for the purposes hereinafter mentioned, to pay the compensation of all officers, agents, managers, superintendents, employees, laborers, servants, attorneys and counsel

employed or continued in employment by said Trustees, and to pay all rentals and other necessary charges accrued, accruing or to accrue under existing leases, trackage contracts or other agreements of the aforementioned Receivers or affirmed by them in writing; to pay, compromise and adjust in their discretion claims for personal injuries and property damage arising out of the operation of said properties by said Trustees; to pay and discharge all traffic car mileage balances and amounts for car and equipment repairs as may be due or become due to connecting or other railroads or other common carriers; to pay all taxes and assessments levied upon said property, or any part thereof, whether the title held be in the name of the Railroad Company or held otherwise for its interests and on its behalf, other than taxes and assessments the collection of which have heretofore been enjoined by court order, and to pay all other charges and expenses in connection with the maintenance and operation of said railroad system and properties, the payment of which in the judgment of said Trustees may be necessary for the preservation of the rights and titles of the Debtor, and for the continued operation of said property, including, but without limiting the foregoing, all rentals heretofore fixed by the Court for the use of rolling stock and equipment acquired under Equipment Trust Indentures; and to make such other payments and disbursements as may be needful and proper in the premises; all subject to the supervision of this Court.

4. That the said Trustees are hereby further authorized and empowered to pay all current expenses of operation incurred by said Receivers and which are not contested or disputed by said Receivers, including current expenses of operation of said Receivers for labor, materials, electric energy and supplies,

wages, and salaries due to officers, agents, employes, attorneys and servants of said Receivers, traffic and car mileage balances and amounts for car and equipment repairs as may be due or become due to connecting or other railroads or other common carriers, and compensation of said Receivers and their attorneys; that said Trustees are hereby further authorized and empowered, in their discretion, to compromise and adjust claims for personal injuries and property damage arising during the operation of the properties of the Debtor by said Receivers; the said Trustees are further authorized to perfect appeals to any proper court of appellate jurisdiction from any judgments entered against the said Receivers in any suits or actions at law, in equity or otherwise, and to continue the prosecution of any appeals taken by said Receivers, and to continue the defense of any such appeals from any suits or actions at law, in equity or otherwise, and to be substituted as a party therein; and to continue the prosecution or defense of any suit or action at law, in equity or otherwise, or before any regulatory body or bodies, instituted by or against said Receivers in this or any other Court or before any regulatory body or bodies, and to pay all expenses incurred therein including attorneys' fees, and to be substituted as parties therein.

5. Said Trustees are hereby further authorized and empowered to institute, prosecute, become parties to, intervene in, compromise and defend suits and actions at law, in equity or otherwise, and to be substituted as parties therein, for the recovery, protection or maintenance of any of said properties, assets and business as they may deem necessary or proper, including any suits, actions or proceedings at law or in equity, or before any regulatory or administrative commission or body, or otherwise, in which the Debtor or said Receivers or said

Trustees may have any interest as plaintiffs, defendants, or otherwise, including the power to continue any such pending suits, and to defend or otherwise dispose of any such suits, proceedings or actions, to settle or compound or make allowances on any or all debts now due and owing, or which may hereafter be due and owing to the Debtor or to said Receivers or said Trustees as they may deem advisable and proper for the protection, maintenance and preservation of the property and assets of the within estate; to continue the prosecution or defense of any and all proceedings now pending before the Illinois Commerce Commission, the Public Service Commission of Wisconsin, or the Interstate Commerce Commission, or other regulatory or administrative commission or body, and to be substituted as parties therein.

6. That said Trustees are hereby further authorized to pay to said Receivers and to their counsel such additional fees and allowances for their services as may hereafter be fixed or allowed by the Court, and the Court herein reserves the right not inconsistent with said Chapter X of the Bankruptcy Laws of the United States to fix and allow such additional fees and allowances to said Receivers and their counsel, and also compensation to mortgage trustees and their attorneys and to such other parties as may be entitled to compensation or reimbursement for expenses, for services rendered, or costs expended in said receivership proceedings.

7. That the Debtor, its officers, directors, agents, employes or other representatives, and any receiver or receivers heretofore appointed by any Court of any of the properties, assets and business of the Debtor, be and they hereby are ordered

and directed to deliver into the possession and control of said Trustees, as of April 1, 1943, or as soon thereafter as their bond is approved and filed, all of the above mentioned properties, assets and business of the Debtor now in its or their possession or control, and said Debtor, and each and every of its officers, directors, agents, employes, or other representatives, and any receiver or receivers heretofore appointed by any court of any of the properties, assets and business of the Debtor, be and they hereby severally are restrained and enjoined from in anywise interfering with or disturbing said Trustees in their exclusive possession, use and enjoyment of any of said properties, assets and business, and from selling, assigning, secreting, transferring, encumbering or otherwise disposing of or dealing with any of said property, assets and business, excepting, however, the duly authorized administration and conduct of the business of the aforementioned receivership estate by the receivers thereof pending assumption by said Trustees herein named of the duties and obligations conferred upon them by their appointment.

8. That said Trustees are hereby authorized to continue the books of account of said Receivers with the same effect as if said Trustees had opened new books of account as of the opening of business at 12:01 A.M. on the first day of April, 1943, and all operations beginning with the opening of business on April 1, 1943 shall be deemed to be for the account of said Trustees.

9. All creditors and stockholders of the Debtor, and all persons claiming or acting by, through or under them, and all sheriffs, marshals and other officers, or their agents,

representatives or employes, and all other parties whomsoever, be and they hereby severally are restrained and enjoined from instituting or continuing to prosecute any actions, suits or proceedings at Law, in equity or under any statute against the Debtor, or from levying or causing to be levied any attachments, executions or other judicial processes or proceedings against the Debtor or any of its properties, assets and business, and from taking or attempting to take into their possession any of said properties, assets and business, or from interfering in any way with the custody, possession, use and enjoyment thereof by said Trustees.

10. The possession and control of all of the properties, assets and business of the Debtor which now are subject to said equity proceedings, Consolidated Cause No. 16156, shall pass to and become vested in said Trustees and come under the exclusive jurisdiction of this Court in the proceedings herein; that except as this Court may from time to time otherwise direct all orders heretofore entered granting authority to said Receivers, including but without limiting the generality of such authority, the right to make contracts, to disburse funds and to retain or employ accountants, shall apply with like force and effect to said Trustees appointed herein as though said Trustees had been specifically named in such orders in place of said Receivers, all of such orders being hereby incorporated in and made a part of this order by reference to the extent that they are not inconsistent with the provisions of said Chapter X.

11. That said Trustees shall be allowed six months (unless the time be extended by further order of this Court) in

which to elect to adopt and affirm or reject and disaffirm any lease, trackage or operating agreement or other contract or agreement not fully performed, whether made by the Debtor or any predecessor or constituent company of the Debtor or by said Receivers of the Debtor, or whether affirmed or adopted by the Receivers of Debtor; that such election shall be made only with the approval of the Court upon prior notice to the parties to such contract and to all parties of record in the within proceedings, and shall be made by instruments in writing subscribed by said Trustees and filed in the office of the Clerk of this Court, and no conduct or user of rights by said Trustees, or payments made by them as rent or otherwise, or any other acts or omissions of said Trustees within said period of time or within any extended period, unaccompanied by the filing of such written instrument, shall be deemed to conclude said Trustees in respect of such election, or be deemed to constitute an election to adopt or continue in force any such contract, lease or agreement. Nothing herein contained, however, shall be deemed an adjudication of either of the following claims which may be asserted by American National Bank and Trust Company as Successor Trustee under certain equipment trust agreements or by holders of any of the certificates issued thereunder, namely:

(1) The claim that said receivers have affirmed and adopted any or all of the equipment trust leases in which American National Bank and Trust Company as Successor Trustee is lessor;

(2) The claim that any such alleged affirmance or adoption is binding upon the Trustees appointed hereby.

12. Said Trustees are hereby authorized to deposit monies coming into their hands as said Trustees with the banks in which said Receivers have heretofore deposited their funds, or

in such other or additional banks as said Trustees may elect, and said funds so deposited may be withdrawn upon checks drawn against said account, signed in such manner and by such persons as said Trustees may from time to time designate, by written instructions to such depositary or depositaries, and until further order of this Court, the countersignature of the Clerk of the Court and of a Referee in Bankruptcy are hereby ordered waived.

13. The said Trustees shall give notice to creditors, stockholders and indenture trustees of the Debtor and to the Securities and Exchange Commission by publishing, at least once a week for two (2) successive weeks, in the Chicago Journal of Commerce, a daily newspaper of general circulation, printed in the English language, published in the City of Chicago, a notice of a hearing to be held, pursuant to the provisions of Chapter X of the Bankruptcy Reorganization Act, before this Court at the United States Court House in the City of Chicago, State of Illinois, on the 3rd day of May, 1943, at 10:00 o'clock A.M. Central War Time, in the Court Room of Michael L. Igoe, or before such other Judge as may be sitting in his place and stead, the first of such publications to be made not later than the 1st day of April, 1943, at which hearing or any adjournment thereof the Court may hear objections, if any, to the retention in office of the Trustees herein appointed, upon the ground that they are not qualified or not disinterested as provided in Section 158 of said Act, and said Trustees shall further give notice of said hearing by mailing a copy of said published notice to creditors and stockholders and indenture trustees of the Debtor and to the Securities and Exchange Commission, at their respective last known residences or places of business as shown

by the records of the Debtor, all of such notices to be mailed postage prepaid and deposited in the United States Mails in the City of Chicago and State of Illinois not later than the 1st day of April, 1943.

14. Said Trustees are authorized and directed to pay all stenographic charges herein and to have printed a suitable number of copies of the pleadings, motions, petitions, orders and other documents filed and entered in this cause from time to time, and to have such number of printed copies as said Trustees may deem advisable bound in convenient form, and from time to time distributed to interested parties, the cost of such printing and binding to be an expense payable out of the funds coming into the hands of said Trustees.

15. Not later than May 1, 1943 the Trustees shall prepare and file in this Court and in this proceeding a list of the creditors of the Debtor of each class, showing the amounts and character of their claims and securities and, so far as known, the name and post office address or place of business of each creditor; and a list of the debtor's stockholders of each class, showing the number and kind of shares registered in the name of each stockholder and the last known post office address or place of business of each stockholder.

16. This Court reserves full right and jurisdiction not inconsistent with the provisions of Chapter X of the Bankruptcy Laws of the United States or with other applicable provisions of said Bankruptcy Laws to hear and dispose of all actions instituted by or against said Receivers in the aforementioned receivership proceedings which are pending and

undisposed of in said proceedings at the time said Trustees appointed hereunder take over the control and operation of the properties and business of Debtor; and any and all further proceedings with respect to such pending actions may be presented to this Court in the above entitled cause as fully as though such pending actions had originally been instituted in this cause, and all parties of record in said receivership proceedings are hereby permitted to intervene herein by entering their appearances.

17. Nothing in this order contained shall be deemed to in any way adjudicate, alter, modify or affect the rights, remedies, claims or powers of the American National Bank and Trust Company of Chicago, as successor trustee under certain equipment trust agreements and leases dated January 2, 1926, December 1, 1927 and December 1, 1929, or of the holders of the certificates issued thereunder, and, without limiting the generality hereof, nothing in this order contained shall be deemed to in any manner affect the claims heretofore asserted in certain petitions now pending in said Consolidated Cause No. 16156, and otherwise, by said American National Bank and Trust Company of Chicago as such successor trustee, or by the holders of said certificates, against the Receivers of said Chicago North Shore and Milwaukee Railroad Company or against said Company.

18. That said Trustees be and they are hereby authorized, ordered and directed to employ until the further order of court the aforementioned Bernard J. Fallon as Executive Officer for the Trustees to operate the business and manage the property of Debtor, such employment to become effective immediately upon the turning over of the property of Debtor to said

Trustees by the aforesaid Receivers.

In the matter of such employment by the Trustees of said Bernard J. Fallon the Court directs the Trustees, in the interest of certainty and the avoidance of misunderstanding, as promptly as may be to enter into a written agreement with the said Bernard J. Fallon setting forth in detail the duties, authority and obligations of said Bernard J. Fallon in the operation of the business and management of the properties of the Debtor and fixing his compensation, such written agreement to be approved by the Court, it being the intent and purpose of the Court that in such employment of the said Bernard J. Fallon as Executive Officer he shall have and exercise such full and complete discretion and authority as is necessary to enable him to efficiently operate the business and manage the property of Debtor.

That pending approval and execution of such agreement between the Trustees and said Bernard J. Fallon, the latter shall operate the business and manage the property of Debtor with general authority sufficient to efficiently and properly operate the business and manage the property of Debtor, and receive the same compensation he is now being paid as Executive Officer for the Receivers.

19. That said Trustees shall to the extent not inconsistent with said Chapter X of the Bankruptcy Act be relieved of the duty and obligation by this order imposed and conferred upon said Bernard J. Fallon as Executive Officer, and shall be justified in relying upon complete performance by said Bernard J. Fallon of the said duties imposed and conferred upon him.

20. That said Trustees are also authorized and directed to employ until the further order of Court as counsel to represent and serve them and said Bernard J. Fallon in all matters relating to the operation of the business and management of the property of Debtor other than to represent said Trustees in conducting the proceeding under said Chapter X of the Bankruptcy Act, Ralph R. Bradley, who heretofore by appointment of the Court has acted as Solicitor for said Receivers in the receivership proceeding and as General Counsel for the Receivers, and also Frederick E. Stout, who has heretofore acted as Assistant to the General Counsel and actively represented the Receivers in legal matters, the compensation of such attorneys to be fixed and approved by the Court, it being the intention and purpose of the Court that such employment of said Ralph R. Bradley and Frederick E. Stout shall not include representation by them of said Trustees in conducting the proceeding under said Chapter X. Nothing herein contained, however, is intended to or shall preclude said Trustees from employing or continuing in employment such other attorneys as have heretofore been employed by the aforementioned Receivers to perform the duties theretofore performed by such attorneys as a part of said Receivers' legal staff in connection with railroad operation and business.

21. This Court reserves full right and jurisdiction to make from time to time such orders as the Court may deem proper fixing the time within which any plan of reorganization shall be proposed, accepted and confirmed, fixing a reasonable time within which the claims and interests of creditors and stockholders may

3-18

be filed, or evidenced and allowed, and in general for the making of such orders extending, amplifying, limiting or otherwise modifying this order as the Court may at any time deem proper.

ENTERED this 29th day of March, A. D. 1943.

IGOE

JUDGE.

Form 95089—9-30.

COPY

Columbia Casualty Company

Home Office, One Park Avenue, New York, N. Y.

HENRY COLLINS, PRESIDENT

In the District Court of the United States for the Northern District of Illinois Eastern Division

IN THE MATTER OF

Chicago North Shore and Milwaukee Railroad Company

Debtor

proceedings for re-organization under Chapter X of the Bankruptcy laws of the United States, No. 77853

Know all Men by these Presents, THAT WE, John B. Gallagher

of Libertyville, Ill., as Principal, and COLUMBIA CASUALTY COMPANY, a corporation organized and existing under the laws of the State of New York, and having an office and principal place of business at No. One Park Avenue, City, County and State of New York, as surety, are held and firmly bound unto the United States of America, in the sum of Twenty-five Thousand and No/100 - - - - - - - - - - Dollars, in lawful money of the United States, to be paid to the said United States; for which payment well and truly to be made, we bind ourselves, and our heirs, executors, administrators, successors, and assigns, jointly and severally, by these presents.

Signed and sealed this 29 th day of March A. D. 19 43

The Condition of this Obligation is such, THAT whereas the above-named John B. Gallagher was on the 29th day of March A. D. 19 43, appointed Trustee in the case pending in Bankruptcy in said Court, wherein Chicago North Shore and Milwaukee Railroad Company is the Debtor and he, the said John B. Gallagher has accepted said trust with all the duties and obligations pertaining thereunto;

Now, Therefore, If the said John B. Gallagher Trustee as aforesaid, shall obey such orders as said Court may make in relation to said trust, and shall faithfully and truly account for all the moneys, assets, and effects of the estate of said Debtor, which shall come into his hands and possession, and shall in all respects faithfully perform all his official duties as said Trustee, then this obligation to be void; otherwise, to remain in full force and virtue.

WITNESS:

JOHN B. GALLAGHER (L. S.)

COLUMBIA CASUALTY COMPANY

By Robert F. Munsell

Attorney-in-fact

APPROVED:

IGOE

Referee in Bankruptcy

U.S. Dis. Judge

3-20

No. 77853

U. S. DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In the matter of
CHICAGO NORTH SHORE AND MILWAUKEE RAILROAD COMPANY,
DEBTOR.

Trustee's Bond in Bankruptcy

SURETY
Columbia Casualty Company
HOME OFFICE
One Park Avenue, New York, N. Y.

CHICAGO OFFICE
539 Insurance Exchange
Chicago, Ill.

Filed Mar. 30, 1943 at o'clock
Roy H. Johnson
Clerk

Form 95089—9-30.

COPY

Columbia Casualty Company

Home Office, One Park Avenue, New York, N. Y.

HENRY COLLINS, PRESIDENT

In the District Court of the United States for the Northern District of Illinois Eastern Division

IN THE MATTER OF

Chicago North Shore and Milwaukee Railroad Company

Debtor

In proceedings for re-organization under Chapter X of the Bankruptcy laws of the United States, No. 77853

Know all Men by these Presents, THAT WE, Edward J. Quinn

of River Forest, Illinois, as Principal, and COLUMBIA CASUALTY COMPANY, a corporation organized and existing under the laws of the State of New York, and having an office and principal place of business at No. One Park Avenue, City, County and State of New York, as surety, are held and firmly bound unto the United States of America, in the sum of Twenty-five Thousand ($25,000.00) - - - - - - - - - Dollars, in lawful money of the United States, to be paid to the said United States; for which payment well and truly to be made, we bind ourselves, and our heirs, executors, administrators, successors, and assigns, jointly and severally, by these presents.

Signed and sealed this 29th day of March A. D. 1943

The Condition of this Obligation is such, THAT whereas the above-named Edward J. Quinn was on the 29th day of March A. D. 1943, appointed Trustee in the case pending in Bankruptcy in said Court, wherein Chicago North Shore and Milwaukee Railroad Company is the Debtor, and he, the said Edward J. Quinn has accepted said trust with all the duties and obligations pertaining thereunto;

Now, Therefore, If the said Edward J. Quinn

Trustee as aforesaid, shall obey such orders as said Court may make in relation to said trust, and shall faithfully and truly account for all the moneys, assets, and effects of the estate of said Debtor, which shall come into his hands and possession, and shall in all respects faithfully perform all his official duties as said Trustee, then this obligation to be void; otherwise, to remain in full force and virtue.

WITNESS:

EDWARD J. QUINN (L. S.)

COLUMBIA CASUALTY COMPANY

By Robert P. Munsell

Attorney-in-fact

APPROVED:

IGOE

U. S. Dis. Judge

No. 77853

U. S. DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In the matter of
CHICAGO NORTH SHORE AND MILWAUKEE RAILROAD COMPANY,
Debtor.

Trustee's
Bond in Bankruptcy

Filed Mar. 30, 1943 at o'clock
Roy H. Johnson Clerk

SURETY
Columbia Casualty Company
HOME OFFICE
One Park Avenue, New York, N. Y.

CHICAGO OFFICE
539 Insurance Exchange
Chicago, Ill.

#3

CERTIFIED COPY D. C. Form No. 30

United States of America
NORTHERN DISTRICT OF ILLINOIS } ss:

I, ROY H. JOHNSON, Clerk of the United States District Court in and for the Northern District of Illinois, do hereby certify that the annexed and foregoing is a true and full copy of the original ORDER entered March 29, 1943, and BONDS of John B. Gallagher and EDWARD J. QUINN filed March 30, 1943, In the Matter of CHICAGO NORTH SHORE AND MILWAUKEE RAILROAD COMPANY, Debtor, No. 77853,

now remaining among the records of the said Court in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at Chicago, Illinois, this 29th day of November, A. D. 1946.

Roy H. Johnson
Clerk.

By S. M. Sheppard
Deputy Clerk.

7—1550

State of Wisconsin }
DEPARTMENT OF STATE } ss.

Received this 2nd day of February A. D. 1948 at 2:00 o'clock P. M. and recorded in Vol. 40 of Railroad Mortgages on pages 246-266, incl.

Assistant Secretary of State

(Fee $6.50)

ORDER OF COURT
SATISFYING BANKRUPTCY PROCEEDINGS FOR REORGANIZATION OF
CHICAGO NORTH SHORE AND MILWAUKEE RAILROAD COMPANY
INTO
CHICAGO NORTH SHORE AND MILWAUKEE RAILWAY COMPANY
DATED, OCTOBER 25, 1946

IN THE

DISTRICT COURT OF THE UNITED STATES

FOR THE NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

IN THE MATTER OF	)	In Proceedings for the Reorganization of a Corporation
CHICAGO NORTH SHORE AND MILWAUKEE RAILROAD COMPANY	)	
DEBTOR	)	No. 77853

ORDER VESTING THE DEBTOR'S PROPERTY IN THE NEW COMPANY AND AUTHORIZING AND DIRECTING OTHER ACTION TO CONSUMMATE THE PLAN OF REORGANIZATION AND CLOSE THE PROCEEDINGS

This cause coming on for hearing on the petition of John B. Gallagher and Edward J. Quinn, Trustees for Chicago North Shore and Milwaukee Railroad Company, Debtor, for an order vesting the Debtor's property in the New Company under the Plan of Reorganization and authorizing and directing certain other action to be taken to consummate the Plan of Reorganization and close the proceedings, and due notice of said petition and of this hearing having been given and the Court being fully advised in the premises, FINDS:

(A) The Plan of Reorganization for Chicago North Shore and Milwaukee Railroad Company, Debtor, (hereinafter sometimes referred to as the Plan) was duly confirmed by the order entered by this Court on June 27, 1946, and said order has become final in all respects.

(B) Pursuant to the provision of the Plan, John B. Gallagher and Edward J. Quinn, Trustees for Chicago North Shore and Milwaukee Railroad Company, Debtor, are carrying out the Plan under the supervision of the Court in accordance with the provisions of the Bankruptcy Act. Said Trustees are hereinafter called the Trustees.

(C) On August 20, 1946, the Court entered an order approving Chicago North Shore and Milwaukee Railway Company as the name of the New Company under the Plan, approving the Articles of Incorporation and Bylaws for the New Company, and authorizing and directing the organization of the New Company under the railroad corporation laws of the State of Illinois, the issuance by the New Company of an initial 10 shares of common stock without par value, the filing of applications with the Illinois Commerce Commission and the Public Service Commission of Wisconsin, and the taking of all other action incidental thereto. Chicago North Shore and Milwaukee Railway Company is hereinafter called the New Company.

(D) Pursuant to said order of August 20, 1946, the Articles of Incorporation of the New Company, in the form approved by said order, were executed and filed with the Secretary of State of the State of Illinois on August 21, 1946 and Chicago North Shore and Milwaukee Railway Company thereupon became the New Company under the Plan of Reorganization. Copies of the Articles of Incorporation and Certificate of the Secretary of State, duly authenticated, were filed and recorded in each of the counties of Cook and Lake in Illinois, and Milwaukee, Racine and Kenosha in Wisconsin, which are all of the counties in which the Debtor transacts business.

(E) On August 21, 1946, the New Company filed herein its statement adopting the Plan and submitting to the jurisdiction of this Court.

(F) Pursuant to said order of August 20, 1946, the Trustees and the New Company filed a joint petition with the Illinois Commerce Commission on August 21, 1946 for authority to transfer the property of the Debtor to the New Company, for

issuance of a Certificate of Convenience and Necessity to the New Company and authority for the Debtor and the Trustees to discontinue service, and for authority for the New Company to issue common stock, all pursuant to and in consummation of the Plan.

(G) Pursuant to said order of August 20, 1946, the Trustees and the New Company filed a joint application with the Public Service Commission of Wisconsin for an order of that Commission authorizing the New Company to operate in the State of Wisconsin, pursuant to and in consummation of the Plan.

(H) By Order and Certificate of Convenience and Necessity dated September 24, 1946, the Illinois Commerce Commission granted said authority requested by the Trustees and the New Company.

(I) By letter dated August 31, 1946 from H. T. Ferguson, Chief Counsel of the Public Service Commission of Wisconsin, to counsel for the Trustees, said Commission advised as follows:

> "It is the opinion of the Commission's counsel that the Public Service Commission of Wisconsin is without any jurisdiction at this time with respect to the approval or disapproval of the plan of reorganization of the Railroad Company referred to in the application; and also is without jurisdiction with respect to authorization for the issuance of any securities which may hereafter be issued by the "New Company" pursuant to said plan of reorganization.
>
> "Accordingly, you are advised that the Commission does not deem it necessary that any formal order be entered or issued upon your petition to enable the "New Company" to operate as a railroad and render the same service which the Chicago, North Shore & Milwaukee Railroad Company, or its Trustees, have presently or heretofore been furnishing.
>
> "You are also advised that in the opinion of the Commission no formal order is necessary in order that all time schedules, tariffs, and other documents filed by the debtor or its Trustees relative to operations as a common carrier be deemed filed by the "New Company", except that it is considered necessary that the "New Company" file with this Commission an Adoption Notice of the time schedules and tariffs of the debtor railroad or its Trustees which

> are presently in effect in the same form and manner as is required to be filed with the Interstate Commerce Commission. This adoption notice appears necessary under Section 195.08 (7), Statutes. This section requires thirty days notice but upon written request accompanying the notice authority from the Commission may be given for making the adopted tariffs effective immediately."

(J) As authorized by said order of Illinois Commerce Commission dated September 24, 1946, the New Company is authorized and directed to issue 10 shares of common stock without par value upon the order of the Trustees for a consideration of $100 a share in cash before commencing business.

(K) Copies of the following documents listed in the petition of the Trustees for this order were filed with the Clerk of this Court on October 23, 1946, in compliance with the order of this Court:

Document No.	Document
1	Specimen Certificate for common stock without par value of Chicago North Shore and Milwaukee Railway Company.
2	Specimen Scrip Certificate in lieu of fractional shares of said common stock.
3	Trustees' Deed to be executed by John B. Gallagher and Edward J. Quinn as Trustees of the Debtor's property.
4	Satisfaction and Release of First Mortgage of Chicago North Shore and Milwaukee Railroad to be executed by Continental Illinois National Bank and Trust Company of Chicago and Harold P. Smith as Trustees.
5	Satisfaction and Release of First and Refunding Mortgage of Chicago North Shore and Northern Railroad to be executed by City National Bank and Trust Company of Chicago and Arthur T. Leonard as Trustees.
6	Exchange Agency Agreement dated November 1, 1943, with Continental Illinois National Bank and Trust Company of Chicago, as Exchange Agent.

Document No.	Document
7	General Notice of Exchange of Securities to be published by the Trustees.

The aforesaid documents are either required by the Plan or are appropriate to the effective consummation of the Plan and should be approved.

(L) In selecting the banking institution to serve as Exchange Agent, the Trustees requested estimates of charges from the several institutions which have acted as trustees under the Debtor's mortgages and deeds of trust in the past and selected the institution making the lowest estimate.

(M) The Debtor, the Trustees, and the New Company have each procured all necessary authorization, approval, or consent of each commission having regulatory jurisdiction over the Debtor, the Trustees, or the New Company.

(N) The issuance, transfer and exchange of securities, and the execution, delivery, filing and recording of documents, as provided for in this order and in the documents hereinafter approved, are all pursuant to the Plan which has been confirmed by this Court in accordance with the provisions of Chapter X of the Bankruptcy Act and are for the purpose of carrying out and putting into effect said Plan, and no further authorizations or approval thereof are required.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

(1) The documents and forms referred to and described in Paragraph (K) of the foregoing findings, and each of them and the terms and provisions thereof, are hereby in all respects authorized and approved.

(2) Except as otherwise provided in this order, at 12:01 A.M., Central Standard Time, on November 1, 1946 (hereinafter referred to as the Closing Time), all of the business and affairs of the Debtor, and all right, title, and interest of the

Debtor and of the Trustees of the Debtor's property in and to the entire property of the Debtor of every kind and description, whether real, personal or mixed, whether tangible or intangible, and whether of present or future interests, and all rights, privileges and franchises of the Debtor, shall vest in and become the absolute property of Chicago North Shore and Milwaukee Railway Company (referred to in this order as the New Company), a corporation organized and existing under the railroad corporation laws of the State of Illinois, free and clear of all rights, claims, interests, liens and encumbrances of the creditors of the Debtor and of the holders of shares of capital stock of the Debtor, and except as otherwise provided in this order the Debtor shall thereupon be released and discharged forever from all its debts and liabilities, whether or not the same shall have been presented or allowed as claims in these proceedings. The New Company and its property shall also be free and clear of all such rights, claims, interests, liens, encumbrances, debts, obligations, and liabilities, except as may otherwise be provided in this order.

(3) In furtherance and confirmation of the aforesaid vesting of the Debtor's property in the New Company, the Trustees shall execute and deliver a deed in the form of the document referred to as Document No. 3 in Paragraph (K) of this order. The said Trustees are further authorized and directed thereafter to execute and deliver any and all such other conveyances, bills of sale, assignments, and other instruments as may be necessary or proper to convey, assign, and transfer to the New Company all of the right, title, and interest of the Debtor and the Trustees in and to the property vested in the New Company by paragraph (2) of this order.

(4) Until the Closing Time, the Trustees shall continue to have all of the title and, subject to the control of

the Court, shall exercise all of the powers heretofore vested in them by the orders of this Court. From and after the Closing Time, the Trustees shall continue in office until the further order of this Court but the New Company shall possess its assets and operate its property and business free from the control of this Court, except as otherwise expressly provided in this order. The Trustees shall prepare and file with the Court as soon as convenient a final statement of account covering the period of their operation of the property and business of the Debtor.

(5) All checks of the Trustees signed prior to the Closing Time shall be honored, and the Trustees are authorized to draw checks on the funds of the New Company after the Closing Time and deliver the same as may be requested by the New Company to facilitate any payments to be made by the New Company, and all such checks shall be similarly honored. Wage, salary, rental, tax and other payments in respect of periods commencing before and terminating after the Closing Time may be made by single checks, whether of the Trustees or of the New Company.

(6) The New Company shall have the right, if it so elects, to be substituted at its own cost and expense as a party in lieu of the Debtor or of the Trustees or of the former equity receivers in any or all litigation or proceedings by or against the Debtor or the Trustees or said receivers or to which any of them were parties, now pending, on appeal or otherwise, or to continue such litigation or proceedings in the name of the Debtor or of the Trustees or of said receivers, and the Trustees and said receivers shall be relieved of any further duty or responsibility in respect of such litigation or proceedings.

(7) The New Company is authorized and directed to pay in cash all costs and expenses of administration of the estate of the Debtor, including costs of printing documents required for consummation of the Plan and the charges of fiduciaries and agents

for performing services thereby required and allowances of fees or reimbursement of expenses heretofore or hereafter incurred to the extent allowable under Chapter X of the Bankruptcy Act, and all other expenditures and allowances which may be approved or made by the Court to the extent that they have not been paid by the Trustees.

(8) The New Company shall assume at the Closing Time and thereafter pay in cash, in due course and without the further order of this Court, the following claims:

(a) Any claims of creditors entitled to priority by reason of the Bankruptcy Act or of any State or Federal law;

(b) Any claim of the United States against the Debtor for taxes, when and as the amount shall be agreed upon by the United States and by the New Company, or when and as determined by any tribunal that shall have jurisdiction, reserving unto the New Company all rights to contest such claims and to appeal from any determination thereof, and, pending such determination, all such claims shall have and retain the same lien and priority, if any, as if the same had been approved and allowed in these proceedings;

(c) Any claim of the holder of an unpaid interest coupon on First Mortgage Gold Bonds or First and Refunding Mortgage Gold Bonds, Series A, which became payable on or prior to July 1, 1932, on First and Refunding Mortgage Gold Bonds, Series B, or Series C, which became payable on or prior to April 1, 1932, if and when such coupon is presented by the holder thereof; and

(d) All claims and obligations falling within the classes of claims which the Trustees have been authorized to incur or pay in the operations of the properties of the Debtor or otherwise by any order or orders of the Court, when the amounts thereof have been finally determined and to the extent that they have not been paid by the Trustees.

The obligation of the New Company to pay such claims (other than those referred to in clause (c) of this paragraph (8)), shall in each case be subject to any and all applicable statutes of limitation, without any tolling thereof by virtue of this order. The Board of Directors of the New Company is hereby authorized to provide for the adjustment, compromise, payment, discharge, or

other disposition by the New Company of all such claims, liabilities, and obligations.

(9) From and after the Closing Time there shall be no liability upon the Trustees or the former equity receivers, or any of them, for any obligations incurred by them in their official capacity as such Trustees or receivers during the respective periods in which they have operated the properties and business of the Debtor pursuant to the authority of this Court, and the New Company shall be and become liable for any and all such obligations and shall indemnify and hold the Trustees or receivers harmless against such obligations.

(10) Subject to any right to disaffirm provided by law, the New Company shall assume and adopt, and be deemed to have assumed and adopted, as of the Closing Time, all executory contracts, leases, and other agreements, including, without limiting the generality of the foregoing, all terminal, joint facility, and trackage agreements, made or entered into by the Debtor or by the receivers in the prior equity receivership proceedings for the Debtor or by the Trustees, which shall not have expired by their terms prior to the termination of these proceedings and which have not theretofore been disaffirmed or rejected in these proceedings or in said equity receivership proceeding, and the New Company shall succeed to all rights, privileges, duties and liabilities of the Debtor, said receivers or the Trustees under such contracts, leases or other agreements.

(11) All general or unsecured claims against the Debtor and the shares of stock of all classes and the certificates representing all such shares of stock of the Debtor having heretofore been found to be without value, are hereby declared to be null and void and of no effect, and are cancelled and discharged for all purposes whatsoever.

(12) The First Mortgage of Chicago North Shore and Milwaukee Railroad to Continental and Commercial Trust and Savings Bank and Frank H. Jones, as trustees, dated July 1, 1916, under which Continental Illinois National Bank and Trust Company of Chicago and Harold P. Smith are successor trustees, and the First and Refunding Mortgage of Chicago North Shore and Northern Railroad to Central Trust Company of Illinois and Aksel K. Bodholdt, as trustees, dated October 1, 1924, as modified by Supplemental Indenture from the Debtor to said trustees dated December 30, 1924, under which City National Bank and Trust Company of Chicago and Arthur T. Leonard are successor trustees, and any other indentures and agreements supplemental or amendatory thereto, are hereby declared to be, as of the Closing Time, null and void, cancelled, and released, and the bonds and coupons secured thereby or issued thereunder, shall be null and void and of no effect as claims against the Debtor or any of its property, except to entitle the holders thereof to receive the common stock without par value and cash distributable to them in respect of such bonds and coupons under the provisions of the Plan and of this order.

(13) In furtherance and confirmation of the termination of the aforesaid mortgages and the respective liens thereof, the aforesaid trustees now acting under said mortgages are hereby authorized and directed, severally and respectively, to execute and deliver instruments of satisfaction and release substantially in the form set forth for each of the said mortgages in the Documents listed as Documents Nos. 4 and 5 in paragraph (K) of this order. Whether executed before or after the Closing Time, each such satisfaction and release shall be effective as of the Closing Time, and as of that time each of said trustees shall be discharged as a trustee and relieved of all of its or his obligations, liabilities, responsibilities, and duties with respect

to the particular mortgage, and any and all indentures and agreements supplemental thereto, under which it or he is acting as such trustee. Except as otherwise specifically directed in this order, the trustees under each of the aforesaid mortgages are further authorized and directed to transfer, convey and deliver or release to the New Company all bonds, stocks, and other securities, all money, credits, choses in action, and all other property, rights and interests of every kind or description held or claimed by them as trustees as aforesaid, and to execute and deliver upon the request of the Trustees or the New Company any additional conveyances, bills of sale, assignments, or other instruments that may be necessary or proper to accomplish and evidence the satisfaction, release, and cancellation of their respective mortgages and any indentures or agreements supplemental thereto, including, in the case of said trustees of the First Mortgage, the stock, and the proper endorsement and transfer of the certificates therefor, of Chicago and Milwaukee Electric Railway Company, which is pledged as collateral to secure said First Mortgage under and pursuant to the agreement dated July 1, 1916, between George M. Reynolds, Samuel Insull and R. Floyd Clinch as Trustees under the trust agreement dated July 1, 1916, made by said Trustees with Frank A. Vath and Charles White, and Continental and Commercial Trust and Savings Bank; provided, however, that in respect of the sum of $25,000 so transferred to the New Company pursuant to this order by Continental Illinois National Bank and Trust Company of Chicago, as Trustee, which sum was deposited with the corporate predecessor of said Trustee pursuant to a certain agreement dated July 1, 1916, between George M. Reynolds and R. Floyd Clinch, acting for and on behalf of the Bondholders' Committee created under the terms of a certain agreement dated January 26, 1912, and

Continental and Commercial Trust and Savings Bank of Chicago, the New Company shall assume, and it and its successors and assigns shall remain obligated in respect of, any and all liabilities of said Trustee under said agreement in respect of said fund deposited pursuant thereto. The said trustees are directed to execute their respective releases and other instruments as aforesaid, and to surrender property as aforesaid now held by them as trustees under their respective mortgages, for the sole and express purpose of remising, releasing, conveying and quitclaiming whatever interest such trustees have as trustees under their respective mortgages and indentures supplemental or amendatory thereto, and no personal covenant or liability shall be implied against or be assumed or undertaken by any trustee executing any such release or other instrument pursuant to this order, by reason of such execution or of any covenant in any instrument so executed, except as may be expressly provided in such instrument.

(14) The Trustees and the New Company are hereby authorized and directed to proceed with and complete the consummation of the Plan in accordance with the terms and provisions thereof, of this Order, and of the orders and directions of the Illinois Commerce Commission and the Public Service Commission of Wisconsin, and of the documents approved in paragraph (1) of

this order.

(15) In so carrying out the Plan the Trustees and the New Company shall have full power and authority to carry out the Plan and the orders of this Court and the Illinois Commerce Commission, to participate in all proceedings, file such appearances, execute and file for record or otherwise such pleadings, papers and other documents, and take any and all other such action as may be necessary or appropriate to accomplish the consummation of the Plan.

(16) The new common stock and cash shall be distributed, in accordance with the provisions of the Plan and as hereinafter provided, to holders of First Mortgage Gold Bonds and First and Refunding Mortgage Gold Bonds, Series A, B and C, which bonds were listed by the Trustees in their report filed herein on May 31, 1945 and in the Plan in the following aggregate principal amounts outstanding in the hands of the public:

	Principal Amount
First Mortgage Gold Bonds:	
Series A bonds bearing interest at 5% per annum and matured July 1, 1936	$3,887,800.00
First and Refunding Mortgage Gold Bonds:	
Series A, bearing interest at 6% per annum and maturing January 1, 1955	$8,502,100.00
Series B, bearing interest at 5½% per annum and maturing April 1, 1956	2,236,700.00
Series C, bearing interest at 5½% per annum and maturing April 1, 1956	2,722,000.00
Subtotal	$13,460,800.00
Total Bonds outstanding in the hands of the public	$17,348,600.00

The following First Mortgage Gold Bonds which are listed in said report and the Plan as being pledged as collateral security for the aforesaid First and Refunding Mortgage Gold Bonds outstanding in the hands of the public are hereby declared to be, as of the Closing Time, null and void and of no effect and shall be surrendered to the Trustees of the New Company for cancellation:

	Principal Amount
Series A, First Mortgage Gold Bonds, bearing interest at 5% per annum and matured July 1, 1936	$ 2,080,000.00
Series B, First Mortgage Gold Bonds, bearing interest at 6% per annum and matured July 1, 1936	3,420,000.00
Total pledged bonds	$ 5,500,000.00

(17) The selection of Continental Illinois National Bank and Trust Company of Chicago, as Exchange Agent, is hereby approved and the New Company is hereby authorized and directed to execute and enter into an Exchange Agency Agreement with Continental Illinois National Bank and Trust Company of Chicago, as Exchange Agent, in substantially the form of the document listed as Document No. 6 in paragraph (K) of this order.

(a) Said Exchange Agent is hereby authorized and directed to execute and become a party to said Exchange Agency Agreement, to receive the surrender of certificates entitled to participate in the Plan and to deliver in exchange therefor the new common stock and cash distributable in respect of such securities on the basis stated in the Plan, and otherwise to conduct the exchange in accordance with said Exchange Agency Agreement;

(b) The Scrip Certificates to be issued and

distributed in lieu of fractions of a share of common stock shall contain the provisions shown in the form of Scrip Certificates listed as Document No. 2 in paragraph (K) of this order which, among other things, shall specify that the Scrip Certificates shall be void after April 1, 1952, and that on July 1, 1952, or as soon thereafter as practicable, the New Company will sell for cash the number of shares of common stock called for by the total Scrip Certificates outstanding at the close of business on April 1, 1952; and thereafter, but not until the completion of said sale, the bearer of a Scrip Certificate, upon surrender thereof for cancellation, will be entitled to receive (without interest) his proportionate share of the net proceeds of such sale, and the holders of such Scrip Certificates shall not after April 1, 1952, otherwise participate in the distribution under the Plan;

(c) The New Company shall deposit in trust with said Exchange Agent $3,500,000 in cash for distribution under and pursuant to the Plan. If the amount of cash so deposited shall prove to be insufficient by reason of the application to surrendered holdings of the authorized rates of payment and exchange pursuant to the specific directions in the Exchange Agency Agreement, including those relating to decimal figures, the New Company shall deposit with the Exchange Agent, at its request and upon appropriate showings in writing furnished by it, such additional amount or amounts of cash as may be required to complete the exchange in accordance with the provisions of this order and the Exchange Agency Agreement.

(d) As provided in said Exchange Agency Agreement, the exchange agency shall terminate on April 1, 1952, and if any holders of First Mortgage Gold Bonds or First and Refunding Mortgage Gold Bonds shall have failed to surrender their bonds for exchange for new Common Stock and cash prior to said termination date, the New Company shall conduct or arrange for a sale or sales, at public or private sale, with or without notice, of the stock not distributed and the Exchange Agent shall obtain from the New Company and deliver to the purchaser appropriate certificates for said stock in exchange for the purchase price thereof, and the Exchange Agent shall then deliver to the New Company the proceeds of said sale together with any cash which has not been distributed, and the New Company shall hold all of said cash, after deduction for all costs of or resulting from said sale, in trust for holders of First Mortgage Gold Bonds or First and Refunding Mortgage Gold Bonds who shall thereafter surrender to the New Company their bonds in exchange for their respective proportionate amounts of cash; and the holders of First Mortgage Gold Bonds and First and Refunding Mortgage Gold Bonds shall not after April 1, 1952, participate in the distribution under the Plan other than as provided above.

(18) The Trustees are authorized and directed to give notice of said exchange and of the provisions of subparagraphs (b) and (d) of paragraph (17) of this order to the affected mortgage bondholders of the Debtor by mailing a notice thereof together with a letter of transmittal and instructions for the surrender of their bonds for exchange,

to such bondholders as their respective names and addresses appear on the lists thereof, by regular United States mail, postage prepaid, and by publishing timely notice of the exchange, once or from time to time, as the Trustees may deem advisable, in each of the following newspapers: Chicago Journal of Commerce, Chicago Daily Tribune, The Chicago Sun, The Chicago Times, Chicago Daily News and Chicago Herald American, all published in Chicago, Illinois; The Waukegan News-Sun, Waukegan, Illinois; The Milwaukee Journal, Milwaukee, Wisconsin; Los Angeles Times, Los Angeles, California; and Wall Street Journal, New York, New York. Such notice shall be substantially in the form of the document listed as Document No. 7 in paragraph (K) of this order. The Trustees are authorized to do any other acts which they deem advisable to make such information and forms available to all bondholders who are entitled to participate in the exchange.

(19) Any unissued or blank bonds now held by the aforesaid trustees under the First Mortgage or First and Refunding Mortgage shall be delivered to or upon the order of the New Company and shall thereafter be cremated or otherwise disposed of in a manner consistent with any rules and regulations applicable thereto. All bonds and coupons surrendered for exchange or paymont or otherwise pursuant to this order shall be cancelled and delivered to or upon the order of the New Company.

(20) From and after the Closing Time, all persons, firms and corporations whatsoever, and wheresoever situated, located, or domiciled, are hereby restrained and enjoined from interfering with the carrying out of the Plan by attaching, garnishing, levying upon, enforcing liens against or upon, or in any manner whatsoever disturbing any portion of the

property, real, personal, or mixed, of any kind or character, belonging to or in the possession of the New Company, and from interfering with or taking steps to interfere with the New Company, its officers and agents, or the operation of the lines of railroad or properties or conduct of the business of the New Company, by reason or on account of any claim or interest as holder or owner of any share or shares of stock of any class or any certificate representing such share or shares of stock of the Debtor, or as holder or owner of any beneficial interest therein, or by reason or on account of any obligation or obligations incurred by the Debtor or the former equity receivers or the Trustees of the Debtor's property.

(21) Each and every individual or firm having or desiring to present any claim for compensation or reimbursement of expenses allowable under Chapter X of the Bankruptcy Act to and including the termination of these proceedings shall file the same in quadruplicate in the form of an application in writing, giving a detailed and specific account of the services rendered or expenses incurred, such filing to be in the office of the Clerk of this Court in the United States Court House, Chicago, Illinois, on or before the 27th day of November, 1946, and shall serve a copy of said application on the Trustees, 79 West Monroe Street, Chicago 3, Illinois.

The Trustees shall give notice of paragraph (21) of this order by mailing a copy thereof to each and every party in interest in these proceedings and in the prior equity receivership proceedings or to his attorney of record, and to each and every trustee named in any mortgage or any other instrument of security securing any of the Debtor's bonds or heretofore securing any of the Debtor's other obligations.

A hearing is hereby set for December 18, 1946, at 10:00 o'clock A.M., Central Standard Time, before Judge Michael L. Igoe, or in his absence before such other Judge as may be presiding in his place and stead, in the court room usually occupied by him in the United States Court House, Chicago, Illinois, for the consideration of applications filed pursuant to this order, and the Trustees shall give notice of such hearing by causing a notice thereof to be mailed in post card form by regular United States mail, postage prepaid, to all applicants, the Debtor, creditors, stockholders, indenture trustees, and the Securities and Exchange Commission, as their respective names and addresses appear on the lists thereof, and by publishing said notice once in one newspaper of general circulation in each of the cities of Chicago, Illinois, and Milwaukee, Wisconsin, said mailing and publications to be made not later than December 5, 1946.

(22) The Court hereby reserves jurisdiction for all purposes necessary to put into effect and carry out this order and the Plan of Reorganization and any other orders entered by this Court relative thereto, including, without limiting the generality of the foregoing, giving instructions and directions to the Trustees with respect to matters now pending or matters which may hereafter arise and passing upon the final statement of account of the Trustees, making allowances of fees or compensation for services heretofore or hereafter rendered and reimbursement of expenses heretofore or hereafter incurred, to the extent allowable under the terms of Chapter X of the Bankruptcy Act, determining or otherwise disposing of all unsettled tax injunction cases now pending before this Court and undetermined whether relating to the prior equity receivership proceedings or to these proceedings,

and taking any and all action necessary to terminate these proceedings.

ENTER:

MICHAEL L. IGOE
District Judge

Dated: October 25, 1946.

DISTRICT COURT OF THE UNITED STATES OF AMERICA
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

I, ROY H. JOHNSON, Clerk of the District Court of the United States of America for the Northern District of Illinois do hereby certify the above and foregoing to be a true and correct copy of ORDER made and entered in said Court on the 25th day of October, 1946, as fully as the same appears of record in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at Chicago, Illinois, this 4th day of December, 1946.

Roy H. Johnson
Clerk
By S. M. Sheppard
Deputy Clerk

State of Wisconsin }
DEPARTMENT OF STATE } ss.
Received this 2nd day of February A. D. 1948 at 2:00 o'clock P. M. and recorded in Vol. 40 of Railroad Mortgages on pages 267-286, incl.

FPI—LK—3-22-46—5M—2001-23

4.40

TRUSTEES' DEED
JOHN B. GALLAGHER AND EDWARD J. QUINN, TRUSTEES
TO
CHICAGO NORTH SHORE AND MILWAUKEE RAILWAY COMPANY
DATED, OCTOBER 30, 1946

TRUSTEES' DEED

KNOW ALL MEN BY THESE PRESENTS, that the Grantors, John B. Gallagher and Edward J. Quinn, as Trustees of the property of Chicago North Shore and Milwaukee Railroad Company, a railroad corporation of the State of Illinois (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 corporation under Chapter X of the Bankruptcy Act, entitled "In the Matter of Chicago North Shore and Milwaukee Railroad Company, Debtor, No. 77853" (hereinafter referred to as the "Trustees"), being in possession of and operating the property of the Debtor in the States of Illinois and Wisconsin, for and in consideration of and compliance with the orders and directions of the Court in the reorganization proceedings and the order of the Illinois Commerce Commission, 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 North Shore and Milwaukee Railway Company, a railroad corporation of the State of Illinois (the New Company under the Plan of Reorganization hereinafter referred to), all and singular the following described property, rights, privileges and franchises:

(Fee $1.90)

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MICROFILMED

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 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, man-

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agement, 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.

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 North Shore and Milwaukee 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; 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 October 25, 1946.

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 November, 1946.

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, John B. Gallagher and Edward J. Quinn, as such Trustees, and not as individuals, have hereunto set their hands and seals this 30th day of October, 1946.

John B. Gallagher (L.S.)

Edward J. Quinn (L.S.)

As Trustees of the property of Chicago North Shore and Milwaukee Railroad Company, Debtor.

In the Pregence of:

J. F. Riordan

D. F. Hutchison

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 30th day of October, in the year 1946, before me, Loretta F. Kuntz, a Notary Public in and for the State and County aforesaid, personally appeared John B. Gallagher and Edward J. Quinn, to me personally known and known to me to be the Trustees of the property of Chicago North Shore and Milwaukee Railroad Company, and personally known to me to be the persons described in and 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 North Shore and Milwaukee 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 John B. Gallagher and Edward J. Quinn, being by me first duly sworn, did severally depose and say that they respectively reside at St. Mary's Road, Libertyville, and 1110 Jackson Street, River Forest, both in the State of Illinois; that said Chicago North Shore and Milwaukee Railroad Company is a railroad corporation of the State of Illinois; 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 corporation under Chapter X of the Bankruptcy Act, entitled "In the Matter of Chicago North Shore and Milwaukee Railroad Company, Debtor, No. 77853"; 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 North Shore and Milwaukee Railroad Company in said proceedings and in possession of and operating said 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 October, 1946.

Loretta F. Kuntz
Notary Public in and for the State of Illinois, County of Cook.
Residing at Chicago, therein.
My Commission expires 2-1-50

(Notarial Seal)

State of Wisconsin }
DEPARTMENT OF STATE }ss
Received this 2nd day of February A. D. 1948 at 2:00 o'clock P. M. and recorded in Vol. 40 of Railroad Mortgages on pages 287-290 incl.

WISCONSIN

Executed in 22
Counterparts
Counterpart No 4

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD EQUIPMENT TRUST,
SERIES CC

Lease of Railroad Equipment

DATED AS OF FEBRUARY 1, 1948

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO
TO
CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

Agreement

DATED AS OF FEBRUARY 1, 1948

PAUL B. ROBB AND H. J. GROENER,
VENDORS
WITH
CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO
AND
CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

THE GUNTHORP-WARREN PRINTING COMPANY, 310 WEST JACKSON, CHICAGO

LEASE OF RAILROAD EQUIPMENT, dated as of February 1, 1948, between **CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO**, a corporation duly organized and existing under the laws of the United States of America, Trustee, as hereinafter mentioned (hereinafter called the Trustee), party of the first part, and **CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY**, a corporation duly organized and existing under the laws of the State of Wisconsin (hereinafter called the Railroad Company), party of the second part:

WHEREAS, by certain agreement, dated as of February 1, 1948, between Paul B. Robb and H. J. Groener, Vendors, Continental Illinois National Bank and Trust Company of Chicago, as Trustee, and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a counterpart original whereof is hereto annexed and made a part hereof, there was constituted "Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series CC," and 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 Railroad Company hereunder; and

WHEREAS, pursuant to the provisions of said Agreement, the railroad equipment hereinafter described 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:

That the Trustee, acting in pursuance of said Agreement, for and in consideration as well of the sum of One Dollar to it paid by the Railroad Company at or before the ensealing and delivery hereof, the receipt of which is here-

by acknowledged, as of the rents and covenants hereinafter mentioned to be paid, kept and performed by the Railroad Company, has let and leased, and does hereby let and lease, to the Railroad Company all the railroad equipment of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series CC (which together with the additional and substituted equipment and replacements as herein and in said Agreement provided are hereinafter and in said Agreement collectively called the Trust Equipment), to wit:

PASSENGER TRAIN CARS.

2 Baggage-dormitory cars, all steel, Nos. 1315 and 1316.
17 Mail and express cars, all steel, Nos. 1214 to 1230, inclusive.
20 Baggage cars, all steel, Nos. 1317 to 1336, inclusive.
2 Railway postal cars, all steel, Nos. 2152 and 2153.
23 Coaches, all steel, Nos. 498 to 508, both inclusive, 536 to 542, both inclusive, and 547 to 551, both inclusive.

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FREIGHT TRAIN CARS.

1,000 40'6", 50-ton, all steel, box cars, Nos. 23938 to 24937, inclusive,

together with such additional or substituted railroad equipment as may be acquired for said Trust and subjected to this Lease, as herein and in the Agreement provided.

The cost of all said equipment is estimated by the Railroad Company to be not less than $6,720,000.

In the event that the Vendors shall, as provided in Section 5 of Article I of the Agreement, acquire other new, standard gauge railroad rolling stock in substitution for, or in addition to, the original Trust Equipment above specifically described, such other new, standard gauge railroad rolling stock shall be included as part of the Trust Equipment and shall be subject to all terms and conditions of this Lease and of the Agreement in all respects as though it had been part of the original Trust Equipment herein described.

As and when the Trust Equipment shall from time to time be transferred and delivered to the Trustee under said Agreement, the same shall be delivered to the Railroad Company, and shall upon such delivery to the Railroad 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 Railroad Company hereunder, in all respects as if the same had been so delivered simultaneously with the execution and delivery hereof.

And the Railroad Company, in consideration of the premises, by these presents covenants and agrees with the Trustee as follows:

First. The cost of the Trust Equipment, whenever used herein or in said Agreement, shall mean the cost of the purchase or construction of the Trust Equipment and shall consist solely of items which may properly be included in such cost under the investment accounting rules of the Interstate Commerce Commission.

The Railroad Company hereby accepts (subject to the conditions mentioned in said Agreement) 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 the Railroad Company covenants and agrees to pay to the Trustee or its assigns (or in the case of taxes to the proper taxing authority) rent hereunder which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable:

(a) From time to time, at or before the delivery of any of the Trust Equipment to the Railroad Company as advance rental, amounts in cash equal to not less than twenty-five per cent (25%) of the cost of the Trust Equipment so delivered, as certified to the Trustee.

(b) If seventy-five per cent (75%) of the aggregate cost of all of the Trust Equipment which shall then and theretofore have been delivered hereunder shall exceed $5,040,000, an amount in cash as advance rental, which, with all other payments previously made under the foregoing clause (a) and this clause (b), shall equal the difference between $5,040,000 and the aggregate cost of all Trust Equipment which then and theretofore shall have been delivered hereunder as aforesaid.

(c) The necessary and reasonable expenses of the trust, including the proper compensation of the Trustee and its counsel for their services and all expenses and liabilities connected with the Trust Equipment and this Lease thereof.

(d) Any and all taxes, assessments and other governmental charges upon the income or property of the trust, or said Agreement evidencing the same, which the Trustee by law may be required to pay, and any and all taxes, assessments and other governmental charges (other than Federal Income Taxes) which the Railroad Company or the Trustee may be required to pay or to retain from the principal of the Trust Certificates issued as provided in said Agreement (herein called the Trust Certificates) or from the dividends thereon, under any present or future law of the United

States of America or any state, county, municipality or other lawful taxing authority therein.

(e) The dividend warrants attached to and the dividends payable on the Trust Certificates when and as the same shall become payable.

(f) The principal of the Trust Certificates when and as the same shall become 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, interest on such unpaid dividends, dividend warrants and principal at the same rate per annum as provided in the dividend warrants.

(h) If the Trustee shall invest funds of the Trust in United States Government securities, as provided in the Agreement, the amount, if any, by which the selling price of said securities including any accrued interest and premium plus any interest paid to the Trustee on such securities is less than the purchase price thereof including any accrued interest and premium.

The Railroad Company shall not be required, however, to pay any tax, assessment or other governmental charge, so long as the Railroad 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 Trust Certificate holders may be materially endangered.

All rentals payable hereunder shall be payable at the principal office of the Trustee in the City of Chicago, State of Illinois, in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts.

Anything herein contained to the contrary notwithstand-

ing, the Trustee shall, for all purposes of this Lease and said Agreement, accept as the cost of any of the Trust Equipment the respective amounts certified to it pursuant to, or in like manner as required by subdivision (b) of Section 4 of Article I of said Agreement. In case any certificate furnished pursuant to said subdivision (b) of said Section 4 or of this Lease shall state that the cost of the equipment therein referred to is tentatively determined subject to final adjustment, such certificate shall nevertheless be accepted and acted upon, pending adjustment.

Second. This Lease shall continue in force until the rent so paid hereunder shall furnish moneys sufficient to meet, discharge and cancel all the interests in said Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series CC, created in respect of the Trust Equipment, and the dividends thereon, as well as the other payments and charges aforesaid. At the termination of this Lease and after all such payments required hereby shall have been completed and fully made to the Trustee, the Trust Equipment hereby leased, whether the same shall be delivered to the Railroad Company simultaneously with or after the execution hereof, shall at the option of the Railroad Company be assigned and transferred by the Trustee to the Railroad Company or its nominee or nominees and shall thereupon be and become the absolute property of the Railroad 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 Railroad Company but title to and ownership of all the Trust Equipment shall be reserved to and remain in the Trustee, notwithstanding the delivery of the Trust Equipment to, and the possession and use thereof by, the Railroad Company.

Third. Upon the written request of the Railroad Company, signed by the President or the Vice-President

and Comptroller of the Railroad Company, stating that the use of any of the Trust Equipment, by reason of its character or the business of the Railroad Company, is no longer profitable to, or required by the Railroad Company, the Trustee may, in its sole discretion, while the Railroad Company is not in default hereunder, execute and deliver a bill of sale assigning and transferring to a purchaser or purchasers found by the Railroad Company the absolute title to such of the Trust Equipment; provided, however, that none of the Trust Equipment shall be so assigned or transferred unless simultaneously with the delivery of such bill of sale the Trustee shall receive from such purchaser or purchasers the agreed purchase price thereof and from the Railroad Company a sum in cash equal to the amount, if any, by which the cost determined as herein provided of the Trust Equipment so assigned and transferred, less depreciation, exceeds said purchase price. For all purposes of this lease and said Agreement, depreciation on the Trust Equipment, or any thereof, shall not exceed an amount equal to $\frac{1}{3}$ of 1 per cent of the cost thereof, determined as herein provided, for each calendar month between the date of delivery of such Trust Equipment to the agent of the Trustee and the date as of which depreciation is to be determined. Simultaneously with the delivery of such written request of the Railroad Company there shall also be delivered to the Trustee a certificate of the President or the Vice-President and Comptroller of the Railroad Company, stating the amount of such agreed purchase price of the Trust Equipment to be assigned and transferred and the amount of such depreciation (not in excess of the amount above stated) accrued upon such Trust Equipment. The sums so paid to the Trustee shall be held by it in trust for the equal and proportionate benefit of the bearers of the Trust Certifi-

cates and dividend warrants, until paid out by the Trustee upon like written request of the Railroad Company for the purchase by the Trustee of new standard gauge railroad rolling stock, free from liens, except the liens, if any, of the First Mortgage and/or of the General Mortgage of the Lessee on such right, title and interest as the Railroad Company may have in or to such rolling stock and which shall be in all respects subordinate to the right, title and interest of the Trustee therein and thereto, and upon the delivery of such new equipment to the Trustee accompanied by a bill or bills of sale, warranty or warranties, an opinion of counsel and a certificate as to delivery and cost in like manner as is provided in Section 4 of Article I of said Agreement. Any new equipment so acquired and substituted shall be marked in accordance with the provisions of Article Fourth hereof and immediately upon being so marked shall be part of the Trust Equipment, subject to all of the terms and conditions hereof and of said Agreement in all respects as though it had been part of the original Trust Equipment herein described, and the Railroad Company and the Trustee shall execute, and the Railroad Company shall file and/or record as required by law, a supplemental lease thereof, describing the same, upon and subject to all terms and conditions hereof. The term "Trust Equipment," wherever used herein, unless otherwise indicated by the context, is intended to include any new equipment so acquired or otherwise subjected to this Lease or required or intended so to be.

Fourth. At or before delivery to the Railroad Company of the Trust Equipment, there shall be plainly, distinctly, permanently and conspicuously placed and fastened upon each side of each unit of the Trust Equipment a metal plate bearing the following words, with appropriate changes thereof or additions thereto as from time to time may be

required by law in order to protect the interest of the Trustee, or such words shall be otherwise plainly, distinctly, permanently and conspicuously marked on each side of each thereof, in either case in letters not less than one-half inch in size:

> "Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series CC, Continental Illinois National Bank and Trust Company of Chicago, Trustee, Owner and Lessor."

Such plate or marks shall be such as to be readily visible and as to indicate plainly the Trustee's ownership of said 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 Railroad Company will immediately cause the same to be restored or replaced. The Railroad Company will not change, or permit to be changed, the numbers upon equipment covered by this Lease (nor any numbers which may be substituted as herein provided), except in accordance with a statement of new numbers to be substituted therefor, which shall previously have been filed with the Trustee by the Railroad Company. In any such case, if the same be feasible, or necessary, the Railroad Company will at its expense cause to be made such notation on or addition to the record of this Lease as may be proper to preserve or protect the record title of the Trustee to such equipment.

The Trust Equipment may be lettered, "Chicago, Milwaukee, St. Paul and Pacific Railroad," "St. Paul," "Milwaukee," "C. M. St. P & P. R. R.," or in some other appropriate manner, for convenience of identification of the leasehold interest of the Railroad Company, its successor or successors therein, but the Railroad 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 Railroad Company or by any person, association or corporation, other than the Trustee.

Fifth. (a) The Railroad Company, during the continuance of this Lease, will maintain and keep, at its own cost and expense, all of the Trust Equipment in good order and repair (the damage to be made good including, without limitation, damage by collision, fire or explosion), and will replace, at its own cost, any of the Trust Equipment that may be worn out, lost, destroyed or rendered unfit for use, by new standard gauge railroad rolling stock of substantially as good material, construction and of equal value, the value of the new rolling stock to be figured at cost, determined as provided in Article First hereof, if that be below market value, or at market value if that be below such cost. For the purpose of this Article Fifth the value of such replaced equipment shall be taken to be the cost thereof, determined as provided in Article First hereof, less depreciation accrued thereon, computed as provided in Article Third hereof. The title to all rolling stock procured for such replacement shall be taken in the name of the Trustee, free from liens, and such rolling stock shall be marked in accordance with the provisions of Article Fourth hereof. At the time of every such replacement the Railroad Company shall deliver to the Trustee a certificate of the President or the Vice-President and Comptroller or an Assistant Comptroller of the Railroad Company, stating the value of the Trust Equipment so worn out, lost, destroyed or rendered unfit for use, determined as herein provided, and the cost and the reasonable market value of the equipment with which it is replaced, together with a bill or bills of sale, warranty or warranties, an opinion of counsel and a certificate as to delivery, in

like manner as is provided in Section 4 of Article I of said Agreement.

Thereupon, such new equipment shall be deemed a part of the Trust Equipment, subject to all the terms and conditions hereof and of said Agreement, as though it had been originally a part of the Trust Equipment; but the Trustee and the Railroad Company shall execute a supplemental lease thereof, describing the same, upon and subject to all of the terms and conditions hereof.

(b) The Railroad Company will during the continuance of this Lease keep all of the Trust Equipment insured against loss or damage by fire, and against other loss or damage the risk of which is customarily insured against by railroad companies, in such manner and to such proportion of the value thereof as is customarily insured by rail road companies. All of such insurance shall be payable to the Trustee as Trustee, Owner and Lessor and shall be in an insurance company or companies satisfactory to the Trustee. All the insurance premium or premiums shall and will be paid by the Railroad Company, and, in default of the the Railroad Company keeping such Trust Equipment so insured, the Trustee without impairment of its rights and remedies by reason of such default may make appropriate insurance from time to time and pay the premium or premiums therefor, but it shall not be required so to do, and in such event the Railroad Company shall and will pay to the Trustee the amount of the premium or premiums so paid, with interest at the rate of 6 per cent per annum from the time of payment. In case the Railroad Company fails to make and maintain such insurance and the Trustee insures the Trust Equipment or any part thereof as above provided, the title to the Trust Equipment shall, notwithstanding the making of all other payments hereunder or under said Agreement to be made by the Railroad Com-

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pany, remain in the Trustee until the repayment of the amount so paid for insurance with interest from the time of payment, and the repayment of such amount is hereby expressly made one of the obligations to be performed before title to the Trust Equipment shall vest in the Railroad Company.

Any insurance moneys paid to the Trustee on account of any loss in respect of the Trust Equipment covered by insurance shall be held and retained by the Trustee in trust for the equal and proportionate benefit of the holders of the Trust Certificates and dividend warrants attached thereto, until the replacement or repair, as provided in subdivision (a) of this Article, of the Trust Equipment covered by such insurance. Upon proof satisfactory to the Trustee of the proper replacement or repair of said Trust Equipment, said insurance moneys received by the Trustee shall be applied by the Trustee to the payment of the cost of such replacement or repair or to reimburse the Railroad Company, to the extent of such funds, for payments made by it in respect of such replacement or repair. A certificate in behalf of the Railroad Company by its President or Vice-President and Comptroller or Assistant Comptroller as to the proper replacement or repair of said Trust Equipment, free from lien, shall be full and complete protection to the Trustee.

(c) The Railroad Company covenants and agrees to furnish to the Trustee, whenever required by the Trustee, and at least once in every year during the continuance of this Lease, an accurate statement, signed by the President, or the Vice-President and Comptroller of the Railroad Company, of the amount, description and numbers of the Trust Equipment then covered hereby, and the amount, description and numbers of all that may have been worn out, lost, destroyed or rendered unfit for use

by accident or otherwise, and the number of units of Trust Equipment repaired during the previous year, and the number of units then undergoing repairs and in the shops for repairs, and the repairs needed on any of the Trust Equipment, specifying the Trust Equipment so in need of repair, classifying the repairs so needed according to a standard classification of repairs, in so far as practicable. Together with said statement the Railroad Company shall also furnish to the Trustee a statement signed by its Superintendent Car Department or an Assistant Superintendent Car Department, stating that in the case of all of the Trust Equipment repainted during the preceding year, the marks required by Article Fourth hereof have been preserved, or that the same when repainted has been again marked as required by said Article. The Trustee shall have the right, by its agents, (but shall not be obligated) to inspect the Trust Equipment once in every year during the continuance of this Lease.

(d) The Railroad Company covenants and agrees to indemnify and protect the Trustee in the use of any and all patented inventions employed in and about the Trust Equipment and to comply in all respects with the laws of the United States and of all the states in which the Trust Equipment or any thereof may be operated and with all lawful acts, rules, regulations and orders of the Interstate Commerce Commission and of all other commissions, boards and other legislative, executive or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including, but without limitation, all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; provided, however, that the Railroad Company may in good faith contest the validity of any such act, rule, regulation or order or the application thereof to the Trust Equipment or any part

thereof, in any reasonable manner which will not, in the judgment of the Trustee, materially endanger the rights or interests of the Trustee or of the bearers of the Trust Certificates.

Sixth. The Railroad Company, so long as it shall not be in default under this Lease, shall be entitled to the possession of the Trust Equipment and the use thereof upon the lines of railroad owned by it or operated by it under lease or otherwise, or over which it has trackage rights, and upon those of any railroad company a majority of whose capital stock is at the time owned or controlled by the Railroad Company, and also upon connecting and other railroads in the usual interchange of traffic, from and after delivery of the Trust Equipment by the Trustee to the Railroad Company, but only upon and subject to all the terms and conditions of this Lease.

The Railroad Company will not either assign or transfer this Lease, or transfer or sublet the Trust Equipment or any part thereof, without the written consent of the Trustee first had and obtained; and the Railroad Company shall not, without such written consent, except as hereinbefore provided, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment.

Seventh. In case the Railroad Company

(1) shall make default in the payment of any part of said rent and such default shall continue for more than thirty (30) days after the same shall become due and payable, or

(2) shall make or suffer any unauthorized assignment or transfer of its rights or interest in, or any unauthorized sublease of, or, except as herein authorized, part with the possession of, the Trust Equipment, or any thereof, and shall fail or refuse either to cause such assignment or transfer or sublease to be canceled

by agreement of all parties having any interest therein and recover possession of such Trust Equipment within thirty days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said thirty days to deposit with the Trustee a sum in cash equal to the actual cost of the Trust Equipment so assigned or transferred or subleased, or the possession of which shall have been so parted with, as certified to the Trustee pursuant to Section 4 of Article I of said Agreement, (any sum so deposited to be returned to the Railroad Company upon the cancellation of such assignment, transfer or sublease, and the recovery of possession by the Railroad Company of such Trust Equipment in good condition, subject to ordinary usage as certified to the Trustee by the President or the Vice-President and Comptroller or the Assistant Comptroller of the Railroad Company, or

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

then, in any such case (herein and in said Agreement sometimes called events of default) the Trustee may, and upon the request in writing of the bearers of not less than 20 per cent in principal amount of the Trust Certificates at the time outstanding shall, declare this Lease terminated. The election of the Trustee to terminate this Lease under this clause shall have the same effect as the retaking of the Trust Equipment by the Trustee as hereinafter provided. Upon the happening of an event of default, the Trustee may also, by its agents, enter upon the railroads and premises of the Railroad Company and take possession of all or any part of the Trust Equipment, and withdraw the same from said railroads and premises, retaining all payments which up to that time may have been made on account of rental for the Trust Equipment and otherwise

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and shall be entitled to collect, receive and retain all unpaid per diem, mileage or other charges of any kind earned by the Trust Equipment or any thereof, and may lease the Trust Equipment or any part thereof, or sell the same or any part thereof, so far as it may deem necessary or desirable to perform and fulfill the trusts under said Agreement, at public sale, for cash or upon credit, in its discretion, and otherwise proceed to enforce its rights and the rights of the owners of interests under said Agreement and under this Lease in the manner therein and herein provided; and upon such taking possession or withdrawal or lease or sale of the Trust Equipment, the Railroad Company shall cease to have any rights or remedies in respect of the Trust Equipment under this Lease, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Railroad Company; and no payments theretofore made by the Railroad Company for the rent or use of the Trust Equipment, or any of it, shall, in case of the happening of any such event of default and such taking possession, withdrawal, lease or sale by the Trustee, give to the Railroad Company any legal or equitable interest or title in or to the Trust Equipment, or any of it, or any cause or right of action, at law or in equity, in respect of the Trust Equipment against the Trustee or the owner of interests in said Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series CC; and such taking possession or withdrawal or lease or sale of the Trust Equipment by the Trustee shall not be a bar to the recovery by the Trustee from the Railroad Company of rentals then or thereafter due and payable, and the Railroad Company shall be and remain liable for the same, until such sum shall have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient

for the discharge and payment in full of all the various items mentioned in subdivision (a), (b), (c), (d), (e), (f), (g) and (h) of Article First hereof, whether they shall have then matured or not.

In case the Trustee shall rightfully demand possession of the Trust Equipment in pursuance of this Lease, and shall reasonably designate a point or points upon the railroad of the Railroad Company, or upon the railroad of any company a majority of whose capital stock is at the time directly or indirectly owned by the Railroad Company, for the delivery of the Trust Equipment to it, the Railroad 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 railroads 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 Railroad Company until the Trustee shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad 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 of equity having jurisdiction in the premises the Trustee shall be entitled to a decree against the Railroad Company requiring the specific performance thereof.

The remedies in this Lease and in said Agreement provided in favor of the Trustee and the holders of Trust Certificates, or any of them, shall not be deemed exclusive,

but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity, and may be exercised from time to time and as often and in such order as may be deemed expedient by the Trustee. No delay or omission of the Trustee in the exercise of any right or power accruing upon any event of default shall impair any such right or power or shall be construed to be a waiver of such event of default or an acquiescence therein.

If the Trustee shall exercise any of the powers or remedies conferred upon it hereunder, the Railroad Company shall have the right, after all rentals and other sums due hereunder to the Trustee shall have been received by the Trustee, to require title to such of the Trust Equipment as shall not previously have been sold, assigned, transferred or otherwise disposed of by the Trustee to others to be transferred and assigned by the Trustee to the Railroad Company free from any further liabilities or obligations to the Trustee hereunder. If after applying all sums of money received by the Trustee in the exercise of such powers or remedies there shall remain any amount due to the Trustee under the provisions of this Lease, the Railroad Company hereby agrees to pay to the Trustee the amount of such deficiency. If after applying as aforesaid all sums so received by the Trustee there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to the Railroad Company.

Eighth. The Railroad Company covenants that prior to the delivery to it of any of the Trust Equipment covered thereby it will cause this Lease and said Agreement, and thereafter from time to time any and all supplemental leases and agreements which may be executed pursuant to the terms hereof and of said Agreement, to be duly filed, registered or recorded and duly refiled, reregistered and rerecorded in each and every jurisdiction

required by law, in order to publish notice of and to protect the Trustee's title to the Trust Equipment and any additions or replacements, and from time to time will perform any other act required by law, and will execute any and all further instruments that reasonably shall be requested by the Trustee for such publication and protection of such title.

Ninth. Until it shall have discharged all its obligations under this Lease, the Railroad Company shall pay all costs, charges and expenses incident to the performance of all terms and conditions of this Lease and said 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 said Agreement and of any instrument of further assurance, and all stamp taxes and other taxes, duties, imposts, assessments, charges, fines and penalties of any kind imposed upon this Lease, said Agreement 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.

Tenth. This Lease 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.

Eleventh. This Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

In witness whereof, the Trustee, acting in accordance with the terms and conditions of said Agreement, and the

Railroad Company have caused these presents to be duly executed, as of the day and year first above written.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,

By H. W. KITCHELL *Vice-President.*

Attest:

V. P. NELSON
Assistant Secretary.

Signed, sealed and delivered by Continental Illinois National Bank and Trust Company of Chicago in the presence of:

V. L. BEDINGFIELD

E. F. HA[illegible]
Attesting Witnesses.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,

By J. W. SEVERS *Vice President.*

Attest:

T. W. BURTNESS
Secretary.

Signed, sealed and delivered by Chicago, Milwaukee, St. Paul and Pacific Railroad Company, in the presence of:

JOHN J. ROCHE

J. P. HYNES
Attesting Witnesses.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, W. G. EVERIST, 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 9th day of February, 1948, 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 H. W. KITCHELL and V. P. NELSON, each to me personally known and known to me to be, respectively, a Vice-President and an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, 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 thereunto subscribed as such, and said H. W. KITCHELL and V. P. NELSON, 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 H. W. KITCHELL resides in Evanston, in the State of Illinois, and that said V. P. NELSON resides in Chicago, in the State of Illinois, that said H. W. KITCHELL is a Vice-President and said V. P. NELSON is an Assistant Secretary of Continental Illinois National Bank and Trust Company of

Chicago, the corporation described in and which executed the within and foregoing instrument in writing; that they, said H. W. KITCHELL, Vice-President and V. P. NELSON, 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 order and 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 Assistant Secretary in behalf of said corporation by like order and 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 APRIL 9, 1949

W. G. EVERIST
Notary Public in and for the State of Illinois, County of Cook.

Form 12A

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 W. G. Everist 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 conveyance 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 10th day of Feb. A.D. 1948

County Clerk.

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 this 6th day of February, 1948, 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, each to me personally known and known to me to be, respectively, 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 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 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 said T. W. BURTNESS is ——— Secretary of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the

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corporation described in and which executed the within and foregoing instrument in writing; that they, said J. W. SEVERS, 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 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 17, 1951.

R. W. Spangenberg
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, 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, in my office in the City of Chicago, in the said County, this 10th day of Dec. 1948.

Michael J. Flynn
County Clerk.

THIS AGREEMENT, dated as of February 1, 1948, by and between PAUL B. ROBB and H. J. GROENER (hereinafter called the Vendors), of the first part, CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO (hereinafter called the Trustee), as Trustee, of the second part, and CHICAGO, MILWAUKEE, ST. PAUL and PACIFIC RAILROAD COMPANY (hereinafter called the Railroad Company), of the third part, WITNESSETH as follows:

WHEREAS, the Vendors have acquired or will acquire from the Railroad Company the railroad equipment (which together with the additional or substituted equipment and replacements as in the Lease and this Agreement provided are hereinafter called the Trust Equipment) specifically described in the Lease of Railroad Equipment from the Trustee to the Railroad Company prefixed to this Agreement, to which Lease reference is hereby made; and

WHEREAS, subscriptions have been or are being secured, in an amount not exceeding $5,040,000 to a fund to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series CC, which said fund is to be deposited with the Trustee and applied by the Vendors or upon their written order in part payment on account of the cost of the Trust Equipment; and

WHEREAS, the Vendors desire to secure to the subscriber or subscribers to said fund, or their assigns, the payment of the amount thereof in twenty equal semiannual installments, payable respectively on February first and August first, in each year, beginning on August 1, 1948, and ending on February 1, 1958, as hereinafter more particularly provided, with dividends to said dates of maturity respectively as hereinafter provided; 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 Railroad Company is desirous of securing the use of the Trust Equipment upon and in connection with the properties of the Railroad Company; and

WHEREAS, the Railroad Company represents that all things necessary to make the guaranty of the Railroad Company as endorsed upon the Trust Certificates, when said Certificates shall be issued by the Trustee under this Agreement, the binding, valid and legal obligation of the Railroad Company, as herein provided, and to make this Agreement and said 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 I.

SECTION 1. 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 of the Trust Certificates hereinafter described, the Trust Equipment described or referred to in said Lease prefixed hereto when and as the Trust Equipment or any part thereof is constructed or completed or otherwise acquired. The Vendors will deliver, or cause to be delivered, the Trust Equipment or any part thereof when and as constructed or 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 or agents of the Railroad Company, and the certificate of any and every agent so designated shall be conclusive evidence of such delivery.

The Trustee and the Railroad Company, simultaneously with the execution of this Agreement, have executed and delivered said Lease of all the Trust Equipment.

SECTION 2. The Trustee shall at any time, or from time to time, upon written request of the Vendors, without waiting for the recording, registration or filing of this agreement, or of any lease of or other instrument respecting the equipment subjected to this Agreement, execute and deliver to the subscriber or subscribers to said fund, as specified in such request, certificates to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust Certificates, Series CC, herein called the Trust Certificates, upon the deposit in cash with the Trustee of a sum equal to the principal amount and accrued dividends to date of delivery of the Trust Certificates the execution and delivery of which shall be so requested and not less than the net proceeds of the sale of said Trust Certificates.

Any interest allowed by the Trustee or earned upon any money so deposited shall be added to said fund and become a part of the Deposited Cash to be disposed of as hereinafter provided. All moneys paid to the Trustee as accrued dividends upon the original issuance and delivery of any Trust Certificates shall be held by the Trustee until the next ensuing dividend payment date, and thereupon shall be applied by the Trustee to the payment of any dividends then due, as if such moneys were paid to the Trustee by the Railroad Company as rent pursuant to Article First of said Lease for application as in subparagraph (e) thereof provided.

SECTION 3. The term Deposited Cash, whenever used herein, shall mean and include (a) the cash deposited with or to the credit of the Trustee constituting said fund, or a part thereof, as in Section 2 of this Article I provided

(including any interest allowed or earned thereon, but excluding any accrued dividends paid upon the original issuance of Trust Certificates), and (b) all installments of rental paid pursuant to subdivisions (a) (b) of Article First of said Lease. The Deposited Cash shall, until paid out by the Trustee as herein provided, be held in trust for the benefit of the bearers of the Trust Certificates. Thereafter, from time to time, when and as any of the Trust Equipment shall have been delivered to the Trustee, the Trustee shall pay to the Vendors, or upon their order, out of the Deposited Cash, an amount equal to the cost of the equipment so delivered to the Trustee, such cost to be conclusively established (subject to the provisions of Section 4 of this Article I) by the certificate in writing of the Railroad Company by its duly designated representative, delivered to the Trustee prior to or contemporaneously with such payment.

SECTION 4. The Trustee shall not pay out any Deposited Cash as provided by Section 3 of this Article I against the delivery of any of the Trust Equipment unless and until it shall have received:

(a) a certificate of the agent or agents designated by the Trustee to receive delivery of the Trust Equipment, stating that Trust Equipment specified by numbers in such certificate has been delivered to such agent or agents and stating that the Trust Equipment specified by numbers in such certificate has been marked in accordance with the provisions of Article Fourth of said Lease;

(b) a certificate of the Railroad Company, signed by the President or the Vice-President and Comptroller or an Assistant Comptroller of the Railroad Company, certifying that the cost of such Trust Equipment, determined as provided in said Lease, is the amount therein specified;

(c) a bill or bills of sale of such Trust Equipment

from the Railroad Company to the Vendors and from the Vendors to the Trustee, such bill of sale by the Railroad Company to contain or be accompanied by a warranty or guaranty of the Railroad Company that the title to the Trust Equipment described therein is free from any liens or encumbrances or that it is free from any lien or encumbrance except the liens, if any, of the First Mortgage and of the General Mortgage of the Railroad Company, and that pursuant to the provisions in said mortgages contained, they have been released or subordinated as to such Trust Equipment to secure or confirm the prior right, charge, lien or title of the Trustee in this Agreement and in the Lease hereto prefixed to such equipment; and

(d) an opinion of counsel satisfactory to the Trustee that such bill or bills of sale and deliveries are valid and effective, either alone or in connection with any other instrument executed in connection therewith, to vest in the Trustee, free from all liens and encumbrances, the title so transferred to the Trustee or that it is free from any lien or encumbrance except the liens, if any, of the First Mortgage and of the General Mortgage of the Railroad Company, and that the liens of each of the mortgages of the Railroad Company, pursuant to the provisions in said mortgages contained, have been released or subordinated as to such Trust Equipment to secure or confirm the prior right, charge, lien or title of the Trustee in this Agreement and in the Lease hereto prefixed to such equipment.

Any such certificate or certificates as to cost may state that the cost of the Trust Equipment therein referred to is tentatively determined, subject to final adjustment, and in that case, adjustments may be made by certificates thereafter filed. A final certificate, signed as provided in paragraph (b) above, as to the cost of all the Trust Equipment shall be delivered to the Trustee by the Vendors not later than February 1, 1949.

SECTION 5. In the event that, owing to the imposition of restrictions by the United States Government, or any governmental bureau, commission, or agency having authority in the premises, the Vendors shall be unable to acquire any and all of the Trust Equipment specifically described in the Lease, the Vendors may cause to be built or acquired, if available, and in such event shall sell, assign, transfer, and set over, or cause to be sold, assigned, transferred, and set over unto the Trustee, subject to the provisions of the foregoing Section 4 of this Article I, other new, standard gauge railroad equipment, of such classes or types, and of such material and construction, as may be approved by the Railroad Company; provided, however, that the Trustee shall not acquire work equipment, except in substitution for work equipment described in the Lease.

In the event that the aggregate cost of the Trust Equipment specifically described in the Lease, and of any equipment that may be substituted therefor in accordance with the provisions of the foregoing paragraph, acquired by the Trustee hereunder, shall not amount to at least $6,720,000, then the Vendors shall cause to be built or acquired, if available, and, in such event, shall sell, assign, transfer and set over, or cause to be sold, assigned, transferred and set over unto the Trustee, subject to the provisions of the foregoing Section 4 of this Article I, other new, standard gauge railroad equipment, other than work equipment, of such classes or types, and of such material and construction, as may be approved by the Railroad Company, and of such cost that the aggregate cost of all the Trust Equipment will be at least $6,720,000.

In case any substituted or additional equipment shall be acquired and transferred to the Trustee in accordance with either of the preceding two paragraphs, the Trustee shall

execute to the Railroad Company a supplemental lease of such substituted or additional equipment, describing the same, upon and subject to the terms and conditions hereof and of the Lease, and such substituted or additional equipment shall be part of the Trust Equipment, subject to all the terms and conditions of this Agreement and the Lease in all respects as though it had been part of the original Trust Equipment specifically described in the Lease.

SECTION 6. The Trustee shall, on request of the Railroad Company, invest and keep invested all, or such part of the Deposited Cash not needed by it to pay for Trust Equipment delivered or about to be delivered, as may be designated by the Railroad Company, in such United States Government securities as it may designate. The Trustee, with or without the request of the Railroad Company, may from time to time sell, at the prevailing market prices, such amount of such securities as it may deem necessary to provide cash to pay for Trust Equipment delivered, or about to be delivered, and may, with or without such request, at any time or from time to time, sell at such prices, all or part of such securities, if by reason of a declining market therefor, it believes there is danger of the securities going below par. The Trustee shall sell any such United States Government securities, held by it, when directed by the Railroad Company. The Railroad Company covenants and agrees that, if the selling price of said securities including any accrued interest and premium, plus any interest paid to the Trustee on such securities, is less than the purchase price thereof, including any accrued interest and premium, the Railroad Company shall forthwith pay to the Trustee the amount of such deficiency as rental, as provided in Paragraph First of the Lease. All interest received by the Trustee on such securities, and all proceeds of the sale thereof, including premium and accrued interest, if any, shall constitute part of Deposited Cash.

SECTION 7. Anything in this Article 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 principal sum of $5,040,000 at any one time outstanding (subject, however, to the provisions of Section 6 of Article II of this Agreement).

SECTION 8. Any moneys held by the Trustee after delivery of and payment for all of the Trust Equipment, the disposition of which is not herein or in said Lease otherwise provided for, shall be credited against the next installment of rental payable under Section (f) of Article First of said Lease.

ARTICLE II.

SECTION 1. Each of the definitive Trust Certificates shall represent an interest in the amount of One Thousand Dollars ($1,000) in the trust of the Trust Equipment hereby created, and the bearer of any trust certificate, whether definitive or temporary, shall be entitled to receive dividends on said amount at the rate of 2¼ per cent per annum from February 1, 1948, payable semiannually on the first day of February and August in each year. $252,000 principal amount of the Trust Certificates shall become due and payable on February and August in each year beginning on August 1, 1948, and ending on February 1, 1958. Each of said Trust Certificates shall have endorsed thereon the guaranty of the Railroad Company in the form hereinafter set forth.

The due date of each Trust Certificate shall appear on its face. The definitive Trust Certificates shall be numbered from 1 consecutively upward to 5040, both inclusive.

Dividend warrants evidencing the right of the holders of the Trust Certificates to the dividends thereon shall be

annexed to the respective definitive Trust Certificates. All dividends on the respective Trust Certificates shall cease after the principal thereof shall have become due.

Trust Certificates if temporary may be printed and if definitive shall be lithographed, lithographically printed or engraved.

SECTION 2. The definitive Trust Certificates, the dividend warrants to be annexed thereto and the guaranty to be endorsed thereon by the Railroad Company as hereinafter in Article III provided shall be in substantially the following forms:

(Form of Trust Certificate.)

No._____ $1,000

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD EQUIPMENT TRUST.

Series CC.

Total Issue not to exceed $5,040,000.

Dividends at the rate of 2¼ Per Cent per Annum.

Payable February 1 and August 1.

Continental Illinois National Bank and Trust Company of Chicago,
Trustee.

Principal Hereof Due _____ 1, 19_____.

Continental Illinois National Bank and Trust Company of Chicago, as Trustee under an agreement dated as of February 1, 1948 (hereinafter referred to as the "Agreement"), between Paul B. Robb and H. J. Groener, of the first part, Continental Illinois National Bank and Trust Company of Chicago, Trustee (hereinafter referred to as the "Trustee"), of the second part, Chicago, Milwaukee, St. Paul and Pacific

Railroad Company (hereinafter referred to as the "Railroad Company"), of the third part, hereby certifies that the bearer hereof is entitled to an interest of One Thousand Dollars in Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series CC, payable on _____ 1, 19_____, unless prior payment hereof be required as hereinafter provided, and to dividends thereon at the rate of two and one-fourth per cent (2¼%) per annum from February 1, 1948, to said date of maturity, payable semiannually on February first and August first 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 City of Chicago and State of Illinois, or at the agency of the Trustee in the Borough of Manhattan, in the City and State of New York, in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts, all without deduction for any tax, assessment or other governmental charge (other than Federal income taxes) which the Railroad Company or the Trustee may be required to pay, or to retain therefrom, under any present or future law of the United States of America, or of any state, county, municipality or other lawful taxing authority therein, but only from and out of rentals or other moneys received by the Trustee from a certain Lease of Railroad Equipment made by Continental Illinois National Bank and Trust Company of Chicago, Trustee, to the Railroad Company, dated as of February 1, 1948.

This certificate is one of an issue of certificates, in bearer form, in an aggregate principal amount not exceeding $5,040,000, substantially identical except as to dates of maturity, all issued or to be issued under said Agreement. The terms of the Agreement further provide that said railroad equipment (or deposited cash and United States Government securities in lieu thereof as provided in said Agreement) and said Lease thereof are to be held by the Trustee in trust for the benefit of the bearers of said certificates.

Reference is hereby made to said Agreement and Lease, filed with the Trustee at its office in the City of Chicago, for a further statement of the rights of the bearers of said certificates thereunder.

This certificate and the attached dividend warrants are issued subject to the condition, and every holder of this certificate or of any such dividend warrants, by accepting the same, agrees with every subsequent holder hereof and with the Trustee and the Railroad Company, that delivery of this certificate or any such dividend warrant by any 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 a negotiable instrument payable to bearer and the Trustee and the Railroad Company shall be entitled to treat the bearer hereof or the bearer of 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 the Railroad 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.

IN WITNESS WHEREOF, the Trustee has caused this certificate to be signed by one of its Vice-Presidents, and its corporate seal to be hereunto affixed and to be attested by its Secretary or an Assistant Secretary, and dividend warrants bearing the facsimile signature of one of its Assistant Secretaries to be attached hereto, as of the first day of February, 1948.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,
As Trustee,

By_____
Vice-President.

Attest:

_____
Assistant Secretary.

(Form of Dividend Warrant.)

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

Due to the bearer hereof on the first day of....., 19....., on surrender hereof at the office or agency of the undersigned Trustee in the City of Chicago and State of Illinois, or at its agency in the Borough of Manhattan, City and State of New York, ... and ..... Dollars, without deduction for any tax or taxes (other than Federal income taxes) required to be paid or retained, as provided in, and being the semi-annual dividend then due on, Certificate No. ..... of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series CC, payable only out of rentals received by the Trustee under the Lease referred to in said certificate.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,
as Trustee,

By.....
Assistant Secretary.

(Form of Guaranty.)

Chicago, Milwaukee, St. Paul and Pacific Railroad Company, for a valuable consideration, hereby unconditionally guarantees to the bearer of the within Certificate, as provided in the Agreement referred to in said Certificate, the prompt payment of One Thousand Dollars, being the principal of said Certificate, when the same shall become due and payable, whether at the maturity thereof or by declaration or otherwise, and the dividends thereon at the rate of 2¼ per cent per annum on the semiannual dates mentioned in said Certificates and in the dividend warrants thereunto attached, all in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY.

By.....
Authorized Agent.

SECTION 3. The Trust Certificates shall be signed in the name and on behalf of the Trustee by one of its Vice-Presidents, and its corporate seal shall be thereunto affixed and attested by its Secretary or one of its Assistant Secretaries. In case any of the officers of the Trustee who shall have signed and sealed any of the Trust Certificates shall cease to be such officers of the Trustee before the Trust Certificates so signed and sealed shall have been issued and delivered by the Trustee, such Trust Certificates shall be adopted by the Trustee and be issued and delivered as though the persons who signed and sealed such Trust Certificates had not ceased to be such officers of the Trustee. The dividend warrants to be thereunto attached shall be authenticated by the facsimile signature of the present or any future Assistant Secretary of the Trustee, and the Trustee may adopt and use for that purpose any such facsimile signature notwithstanding the fact that such Assistant Secretary may have ceased to be such Assistant Secretary at the time when any such Trust Certificate shall be issued and delivered as herein provided. Before executing and delivering any Trust Certificates the guaranty of the Railroad Company shall be duly executed thereon as hereinafter in Section 2 of Article III provided, and all matured dividend warrants thereto appertaining shall be cut off and canceled and delivered by the Trustee to the Railroad Company.

SECTION 4. Trust Certificates shall be in bearer form and shall pass by delivery.

Dividends upon the Trust Certificates shall be payable only upon presentation and surrender of the appropriate dividend warrants, or, in the case of temporary Trust Certificates without warrants, only upon presentation of such temporary Trust Certificates for a notation of such payment thereon.

Anything to the contrary herein notwithstanding, the parties hereto may deem and treat the bearer of any Trust Certificate 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.

SECTION 5. Temporary printed Trust Certificates, with or without dividend warrants, in such form and denominations as the Trustee may determine, may be issued by the Trustee, having endorsed thereon said guaranty of the Railroad Company, which shall be exchangeable, without cost, upon surrender for definitive Trust Certificates, of equal principal amount and of the same maturity or maturities and having endorsed thereon said guaranty of the Railroad Company, when the same shall have been prepared. 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 Railroad Company.

SECTION 6. In case any Trust Certificate, or the dividend warrants thereto attached, shall become mutilated or defaced or be lost, destroyed or stolen, then on the terms herein set forth, and not otherwise, the Trustee shall execute and deliver a new Trust Certificate (and the Railroad Company shall execute its guaranty thereon), with all unmatured dividend warrants, if any, appertaining thereto, of like maturity, tenor and date, and bearing the same serial number as the one mutilated, defaced, lost, destroyed or stolen, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Trust Certificate and warrants, or in lieu of and substitution for the same if lost, destroyed or stolen, and make payment of any

matured dividend warrants appertaining to the same. The applicant for a new Trust Certificate shall furnish to the Trustee and to the Railroad Company evidence to their satisfaction of the loss, destruction or theft of said Trust Certificate or warrants alleged to have been lost, destroyed or stolen and of the ownership and authenticity of such mutilated, defaced, lost, destroyed or stolen Trust Certificate and warrants, and also such security or indemnity as may be required by the Trustee and by the Railroad 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, defaced, lost, destroyed or stolen 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.

ARTICLE III.

SECTION 1. The Railroad 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 may be liable, and all taxes (other than Federal income taxes) which the Trustee or the Railroad Company may be required to pay or to retain from the principal of the Trust Certificates or the dividends payable in respect thereof, under any present or future law of the United States of America or of any state, county, municipality or other lawful taxing authority therein.

SECTION 2. The Railroad Company covenants and agrees and unconditionally guarantees that the bearer of each of the Trust Certificates shall receive the principal amount

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thereof, in such coin or currency of the United States of America as, at the respective times of payment, is legal tender for public and private debts, when and as the same shall become due and payable, whether at the maturity thereof or by declaration or otherwise (and, if not so paid, with interest thereon at the same rate per annum as provided in the dividend warrants), and shall receive dividends thereon in like coin or currency at the rate of 2¼ per cent per annum from February 1, 1948, to the date of maturity of such Trust Certificate, at the times and places and otherwise as expressed in the Trust Certificates and the warrants thereto attached (and if not so paid, with interest thereon at the same rate per annum as provided in the dividend warrants); all without deduction for any tax, assessment or other governmental charge (other than Federal income taxes) which the Railroad Company or the Trustee may be required to pay, or to retain therefrom, under any present or future law of the United States of America, or of any state, county, municipality or other lawful taxing authority therein, and the Railroad Company further covenants and agrees to endorse upon each of the Trust Certificates, definitive or temporary, at or before the issue and delivery thereof by the Trustee, its unconditional guaranty of the prompt payment of the principal thereof and of the dividends thereon, in substantially the form in Section 2 of Article II hereof provided. Said guaranty so endorsed shall be signed in the name and on behalf of the Railroad Company by such officer or officers as shall have been duly authorized by the Board of Directors of said Railroad Company to sign upon its behalf. In case any of the officers of the Railroad Company who shall have signed such guaranty shall cease to be such officers of the Railroad Company before the Trust Certificates shall have been actually issued and delivered by the Trustee, such guaranty shall never-

theless be as effective and binding upon the Railroad Company as though the persons who signed such guaranty had not ceased to be such officers of the Railroad Company.

ARTICLE IV.

SECTION 1. The Railroad 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 lien or charge upon or against any of the Trust Equipment, except upon the leasehold interest of the Railroad 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 the holders of the Trust Certificates in the Trust Equipment.

SECTION 2. The Railroad 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, the expenses incident to the preparation, execution and exchange of the Trust Certificates and dividend warrants, including the temporary Trust Certificates, or connected with the preparation, execution, recording, registration and filing hereof or of said Lease or of any instruments executed under the provisions hereof or of said Lease in respect of the Trust Equipment or Lease, or any equipment or parts used to replace any of the same.

SECTION 3. The Railroad Company covenants and agrees with all convenient speed to cause this Agreement and said

Lease and any supplemental leases and agreements which may be executed under the terms of this Agreement, or of said Lease, to be duly filed or recorded in all states wherein are situated railroad lines which the Railroad Company operates or to which it has title or over which it has trackage rights, or wherein are situated railroad lines of any railroad company a majority of whose capital stock is owned or controlled by the Railroad Company, and otherwise as may now or hereafter be provided by law for the full protection of the title and rights of the Trustee and of the holders of the Trust Certificates, so that this Agreement and said Lease and all other such supplemental instruments may at all times be duly filed and recorded.

SECTION 4. The Railroad Company covenants and agrees from time to time to do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and said Lease and the intent thereof.

ARTICLE V.

SECTION 1. In order to prevent any accumulation of Trust Certificates or of dividend warrants after maturity, neither the Trustee nor the Railroad Company shall directly or indirectly extend or assent to the extension of the time for the payment of any Trust Certificate 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 Railroad Company shall directly or indirectly be a party to or approve of any arrangement for purchasing or funding any of said Trust Certificates 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 or dividend warrant shall be so extended, whether or not such extension be by or with the consent of the Trustee or the Railroad 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 Railroad 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 Railroad Company, such Trust Certificate, dividend or dividend warrant shall not be entitled to the benefit of said Lease or of this Agreement, except subject to the prior payment in full of the principal of all other Trust Certificates, dividends and dividend warrants, whether the same be then matured or unmatured.

SECTION 2. In case one or more of the events of default described in Article Seventh of said Lease shall happen, the Trustee in its discretion may, and at the request of the bearers of twenty per cent (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 (so far as may be necessary to perform the trusts hereunder), at public sale, for cash or upon credit, as the Trustee may deem most beneficial to the interest of the bearers of said Trust Certificates. Upon the written request of the bearers of twenty per cent (20%) in principal amount of the Trust Certificates at the time outstanding, in case one or more of said events of default shall happen (whether

the principal of the Trust Certificates shall have been declared due and payable or not), it shall be the duty of the Trustee upon being indemnified as hereinafter provided to take all steps for the protection and enforcement of its rights and the rights of the bearers of the Trust Certificates, and to exercise one or more of the powers of entry, sale or lease in said 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 interest of the bearers of the Trust Certificates; but, anything in this Agreement to the contrary notwithstanding, upon indemnity satisfactory to the Trustee the bearers of a majority in principal amount of the Trust Certificates then outstanding shall have the right from time to time to direct what proceedings for any enforcement of said Lease and this Agreement and the sale or lease of the Trust Equipment shall be taken by the Trustee. The proceeds of such proceedings or lease or sale shall be applied by the Trustee to the payment after deducting the expenses of the trust and reasonable compensation of the Trustee and all taxes, assessments and other governmental charges which the Trustee may by law be required to pay in respect of the trust or the Trust Certificates aforesaid or the dividends thereon:

(1) of the dividends and dividend warrants then due with interest on any overdue dividends and dividend warrants at the same rate per annum as provided in the dividend warrants; and

(2) of the principal of all said outstanding Trust Certificates with interest thereon at the same rate per annum as provided in the dividend warrants, from the last preceding dividend date, whether said Certificates or any of them shall then have matured by their terms or not;

all of said payments to be in full, if said proceeds shall be sufficient and if not, then *pro rata*, without preference of

principal over dividends, or of dividends over principal or otherwise (subject, however, to the provisions of Section 1 of this Article V), and without regard to the dates of maturity thereof.

The foregoing provisions, however, are subject to the condition that, if at any time after the principal of the Trust Certificates shall have been declared and have become due and payable, as hereinbefore provided, but before February 1, 1958, all arrears of rental (with interest upon any overdue instalment at the same rate per annum as provided in the dividend warrants), the expense and reasonable compensation of the Trustee and all other sums which shall have become due and payable by the Railroad Company hereunder or under said Lease (other than the principal of Trust Certificates and rental instalments which shall not at the time have matured according to their terms) shall be paid by the Railroad Company before any taking possession, withdrawal, sale or lease by the Trustee of any of the Trust Equipment, and every other default in the observance or performance of any covenant or condition of this Agreement or said Lease shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then and in every such case the Trustee, if so requested by the bearers of a majority in principal amount of the Trust Certificates then outstanding and which shall not have been matured according to their terms, shall, by written notice to the Railroad Company, waive the default by reason of which the principal of the Trust Certificates shall have been declared and become due and the consequences of such default, and said Lease shall upon such waiver be and continue in full force and effect, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

Neither such retaking possession nor any withdrawal or

lease or sale of the Trust Equipment by the Trustee nor any action or failure or omission to act, against the Railroad Company or in respect to the Trust Equipment, on the part of the Trustee or on the part of any bearer of any Trust Certificate or dividend warrant, nor any delay or indulgence granted to the Railroad Company by the Trustee or any such bearer, shall affect the obligations of the Railroad Company under this Agreement or under said Lease or under its guaranty.

The Railroad Company waives presentation and demand in respect of any of the Trust Certificates and dividend warrants and waives notice of presentation and demand and of any default in the payment of principal of and dividends upon the Trust Certificates.

The Trustee may at any time, upon notice in writing to the Railroad Company, apply to any court of competent jurisdiction for instructions as to the application and distribution of any funds or property held by it.

ARTICLE VI.

SECTION 1. The Trustee hereby accepts the trust created hereby, subject to the terms and conditions hereof and of said Lease, and hereby covenants and agrees, so far as reasonably possible, subject to the provisions of Sections 4, 5 and 7 of this Article VI, to perform, and to enforce the performance of, all and singular the terms, conditions and covenants of said Lease.

SECTION 2. The Trustee covenants and agrees to apply and distribute the rentals received by it under subdivisions (c), (d), (e), (f) and (g) of Article First of said Lease, when and as the same shall be received, for the following purposes, to wit:

(a) to the payment of the necessary and reasonable expense of the trust, including the proper com-

pensation of the Trustee and its counsel for its services and all expenses connected with the Trust Equipment and said Lease thereof;

(b) to the payment of any taxes, assessments and other governmental charges upon the Trust Equipment which it may by law be required to pay; and to the payment of any and all taxes, assessments and other governmental charges (other than Federal income taxes) which may by law be charged against the Trustee upon the Trust Certificates or the dividends payable thereunder, or which the Trustee may be required to retain or deduct therefrom or to pay thereon under any present or future law of the United States of America, or of any state, county, municipality or other lawful taxing authority therein;

(c) to the payment of the dividends payable on the Trust Certificates and of the dividend warrants appurtenant thereto when and as the same shall become payable;

(d) to the payment of the principal of the Trust Certificates when and as the same shall become payable according to the terms thereof or hereof; and

(e) to the payment of interest on any unpaid dividends, dividend warrants or principal at same rate per annum as provided in the dividend warrants.

SECTION 3. The Trustee, at all times until the payment of the principal of all the Trust Certificates, shall keep an office or agency in the City of Chicago and State of Illinois and an agency in the Borough of Manhattan in the City and State of New York, where the Trust Certificates and dividend warrants may be presented for payment.

SECTION 4. The Trustee assumes no liability for anything other than its own wilful default, misconduct or gross neglect, or that of its officers or directors. It shall be required to undertake no act or duty in the way of taking care of or taking possession of the Trust Equipment until fully secured against all liability and expenses.

The Trustee shall not be liable for the delivery of any of the Trust Equipment, or for any defect therein or in the title thereto of the Trustee, nor shall anything herein be construed as a warranty 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. All representations and recitals contained in this Agreement and in said Lease are made by and on behalf of the Railroad 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 purports to have any knowledge with respect thereto, and the Trustee shall not be responsible in any way for the validity thereof, 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, nor shall it be responsible for the filing, refiling, recording or rerecording of this Agreement or of said Lease; and the Trustee may issue and deliver Trust Certificates in advance of such filing or recording.

The Trustee may exercise its powers and perform its duties hereunder and under said Lease by or through such attorneys, agents and servants as it shall appoint, and it shall be entitled to the advice of counsel (who may, in cases deemed by the Trustee, in its reasonable discretion, to be appropriate, be of counsel for the Railroad Company), and shall be protected by the advice of such counsel in anything reasonably done, or omitted to be done, by it in good faith in accordance with such advice. The Trustee shall not be liable or responsible for the neglect, default or misconduct of any attorney, agent or servant appointed and retained by it in the exercise of reasonable care, but nothing in this sentence contained shall limit any liability of the Trustee,

pursuant to the first sentence of this Section 4, for acts, neglects or wilful defaults of its officers or directors.

SECTION 5. The Trustee shall be under no obligation to take any action for the execution or enforcement of any of the trusts hereby created unless requested thereunto in writing by the bearers of not less than twenty per cent (20%) in principal amount of the then outstanding Trust Certificates, and upon being satisfactorily indemnified against expenses and liability with respect thereto, and also furnished with proof satisfactory to it as to the ownership of the Trust Certificates in respect of which any notice or request may be made; but neither any such request nor this provision therefor shall affect any discretion herein elsewhere specifically given to the Trustee to determine what action it shall take in respect of any such default, or to take action without request.

SECTION 6. No bearer of any Trust Certificate or dividend warrant issued hereunder (other than the bearer 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, after the aforesaid request in writing by the bearers of not less than twenty per cent (20%) in principal amount of the then outstanding Trust Certificates shall have been made upon the Trustee and ninety days' time elapsed for action by the Trustee upon such request, it shall decline to institute any proceedings pursuant thereto.

SECTION 7. The Trustee may, for all purposes, conclusively assume that the Railroad Company is not in default under the terms hereof until notified in writing to the contrary by the bearers of at least five per cent (5%) in principal amount of the Trust Certificates then outstanding, which notice shall distinctly specify the default desired to be brought to the attention of the Trustee.

SECTION 8. The Trustee shall not incur any liability to anybody in acting upon any notice, consent, order, certificate, warrant, receipt, request or other paper or instrument reasonably believed by it to be genuine or authentic, and to be signed by the proper party or parties and reasonably believed by it to be sufficient.

SECTION 9. The Trustee, in so far as permited by law, will allow such interest upon all moneys received by it under the provisions of this Agreement or of said Lease as during that time is allowed by it upon deposits of a similar character.

SECTION 10. The Trustee may resign and be discharged from the trusts created by this Agreement by mailing to the Railroad Company notice in writing of such resignation, specifying a date when it is desired that such resignation shall take effect. Such notice shall be published at least once in each of three successive calendar weeks prior to the date specified in such notice, on any day or days of the week, in two daily newspapers printed in the English language, one published and of general circulation in the City of Chicago and State of Illinois and the other in the Borough of Manhattan in the City and State of New York. Such resignation shall take effect immediately upon, but not prior to, the appointment of, and acceptance of the trust by, such successor trustee as hereinafter provided, whether on, prior to, or subsequent to, the date stated in said notice of resignation.

Any trustee hereunder may be removed at any time by an instrument in writing filed with the Trustee and executed by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding.

SECTION 11. In case at any time the Trustee shall resign or shall be removed or otherwise shall become incapable

of acting, a successor may be appointed by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding by an instrument or concurrent instruments signed by such bearers or their attorneys in fact duly authorized; but until a new trustee shall be appointed by such bearers as herein authorized, the Railroad Company, by an instrument executed by the President or the Vice-President and Comptroller of the Railroad Company, or its duly authorized agent, shall appoint a trustee to fill such vacancy. If the Railroad Company shall fail, within thirty days after the receipt of notice that the Trustee has resigned, to appoint a trustee to fill such vacancy, and if a successor trustee shall not have been appointed by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee. Every such successor trustee, whether appointed by the bearers of the Trust Certificates or by the Railroad Company or by order of court, shall always be a trust company or bank having power so to act, shall be a member bank of the Federal Reserve System, or of such system of banks, if any, as may be established in lieu thereof, shall be organized under the laws of the United States of America, or the State of Illinois and having an office in the City of Chicago and State of Illinois, or the State of New York and having an office in the Borough of Manhattan in the City and State of New York, and shall have a capital and surplus aggregating at least Five Million Dollars. After any such appointment by the Railroad Company or by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding the Railroad Company shall cause notice of such appointment to be published once a week in each of four successive weeks in two daily newspapers printed in the English language, one published and

of general circulation in the City of Chicago and State of Illinois, and the other in the Borough of Manhattan in the City and State of New York; but any new trustee so appointed by the Railroad Company or by a court of competent jurisdiction shall immediately, and without further act, be superseded by a trustee appointed, in the manner above provided, by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding, provided such appointment is made within a period of one year after the Trustee shall resign, be removed or become incapable of acting.

Any successor trustee appointed hereunder shall execute, acknowledge and deliver to the Railroad 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 Railroad 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 Railroad Company.

Any corporation resulting from any merger or consolidation to which the Trustee, or any successor to it, shall

be a party, shall be the 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, provided such corporation shall be a corporation having power so to act, shall be a member bank of the Federal Reserve System, or of such system of banks, if any, as may be established in lieu thereof, shall be organized under the laws of the United States of America, or the State of Illinois and having an office in the City of Chicago and State of Illinois, or the State of New York and having an office in the Borough of Manhattan, in the City and State of New York, and shall have a capital and surplus aggregating at least Five Million Dollars.

SECTION 12. The Trustee shall be entitled to reasonable compensation for all services rendered by it and the Railroad Company agrees to pay from time to time, on demand of the Trustee, such compensation and to reimburse the Trustee for, and defend and save it harmless against, any and all loss, damage, liability, claims, demands, disbursements and expenses, including reasonable counsel fees, which it may incur hereunder or under said Lease, and to secure the payment thereof the Trustee shall have a lien on the Trust Equipment and the proceeds thereof prior to the rights therein of the bearers of Trust Certificates.

The Trustee may become the owner of Trust Certificates and 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.

ARTICLE VII.

In case of the death or inability to act of either of the Vendors, the other Vendor shall have and discharge all the powers of the Vendors. In case of the death or inability to act of both of the Vendors, the Trustee shall receive and distribute or pay for the account of the original Vendors, to the parties entitled to receive the same from the original Vendors, all Trust Certificates issuable or Deposited Cash or other moneys payable to the original Vendors by the Trustee hereunder. Any action taken by either of the Vendors shall have the same force and effect as if taken by both of them. The Vendors shall incur no liability hereunder, or under any bill of sale, guaranty or warranty executed by them as herein provided, for anything other than their own wilful default, misconduct or gross neglect. The Vendors shall be entitled to the advice of counsel (who may in appropriate cases be of counsel for the Railroad 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 VIII.

Any request or other instrument required by this Agreement to be signed or executed by bearers of Trust Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such bearers 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 conclusively be deemed to be satisfactory to the Trustee), 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 Illinois, acknowledgments of deeds to be recorded 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;

(b) the amount of Trust Certificates held by any person executing any such request or other instrument as a Certificate holder, and 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.

ARTICLE IX.

At the termination of said Lease, any moneys, remaining in the hands of the Trustee, after paying the principal of and dividends upon the Trust Certificates, and the expenses of the Trustee, including its reasonable compensation, shall be paid to the Railroad Company.

ARTICLE X.

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 the bearers of the Trust Certificates and the bearers of the appurtenant dividend warrants, any right, remedy or claim, under or by reason of this Agreement, or of any term, covenant or condition thereof, and all of the terms, covenants, conditions, promises and agreements in this Agreement contained shall be for the sole and exclusive benefit of the parties hereto and their successors and of the bearers of the Trust Certificates and the bearers of the dividend warrants.

ARTICLE XI.

The term "Trustee" as used herein and in said Lease shall be held and construed to mean Continental Illinois National Bank and Trust Company of Chicago, its successors and assigns; and the term "Railroad Company" herein to mean Chicago, Milwaukee, St. Paul and Pacific Railroad Company, its successors and assigns. The term "Trust Equipment" whenever used herein or in said Lease, unless otherwise indicated by the context, is intended to include all railroad equipment at any time covered by said Lease or any supplemental lease or this Agreement or required or intended so to be. The terms "Trust Certificate" or "Trust Certificates", whenever used herein or in said Lease, includes, unless the context otherwise indicates, both temporary and definitive certificates. The term "State" whenever used herein or in said Lease shall include the District of Columbia.

Whenever, under the provisions hereof, it is necessary or proper for any notice or demand to be given to or made

upon the Railroad Company, or if at any time it is desired to give any such notice or make any such demand, such notice or demand may be given or made to the Railroad Company by depositing a written statement thereof, securely enclosed in a postpaid wrapper in the United States registered mail, directed to the Railroad Company at Union Station Building, Chicago 6, Illinois, and an affidavit by any person representing or acting on behalf of the Trustee as to such mailing, shall be conclusive evidence of the giving of such notice and the making of such demand.

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.

IN WITNESS WHEREOF the parties of the first part have hereunto set their hands and seals, and the parties of the second and third parts have caused their respective corporate names to be signed hereto by their respective officers thereunto duly authorized and their respective corporate seals to be hereto affixed, duly attested, as of the day and year first above written.

Paul B Robb (L. S.)

H J Groener (L. S.)

Signed, sealed and delivered by Paul B. Robb and H. J. Groener in the presence of:

V. L. BEDINGFIELD

E. F. HARTMAN

Attesting Witnesses.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,
As Trustee,

By H. W. KITCHELL *Vice-President.*

Attest:

V. P. NELSON
Assistant Secretary.

Signed, sealed and delivered by Continental Illinois National Bank and Trust Company of Chicago in the presence of:

V. L. BEDINGFIELD

E. F. HARTMAN

Attesting Witnesses.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,

By J. W. SELVEY *Vice President.*

Attest:

T. W. BURTNESS *Secretary.*

Signed, sealed and delivered by Chicago, Milwaukee, St. Paul and Pacific Railroad Company, in the presence of:

JOHN J. ROCHE

J. P. HYNES

Attesting Witnesses.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, W. G. EVERIST, 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 the 9th day of February, 1948, 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 Paul B. Robb and H. J. Groener, to me personally known and known to me to be the individuals described in and the identical persons who subscribed their names to and who executed the within and foregoing instrument in writing in my presence as parties of the first part thereto and in the presence of the two witnesses whose names are thereunto subscribed as such, and said Paul B. Robb and H. J. Groener severally duly acknowledged to me in the presence of said witnesses that they signed, sealed, executed and delivered said instrument as their 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 Cook, State of Illinois, this the day and year in this my certificate first above written.

My commission as such Notary Public expires APRIL 9, 1948

W. G. EVERIST
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 W. G. Everist 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 said County, this 10th day of Feb 19

Michael J. Flynn County Clerk.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, W. G. EVERIST, 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 9th day of February, 1948, 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 H. W. KITCHELL and V. P. NELSON, to me personally known and known to me to be, respectively, a Vice-President and an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, 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 H. W. KITCHELL and V. P. NELSON, 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 H. W. KITCHELL resides in Evanston, in the State of Illinois, and that said V. P. NELSON resides in Chicago, in the State of Illinois; that said H. W. KITCHELL is a Vice-President, and said V. P. NELSON is an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, the corporation

described in and which executed the within and foregoing instrument in writing; that they, said H. W. KITCHELL, Vice-President, and V. P. NELSON, 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 order and 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 Assistant Secretary in behalf of said corporation by like order and 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 APRIL 9, 1949

W. G. EVERIST
Notary Public in and for the State of Illinois, County of Cook.

Form 13A

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

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 W. G. Everist 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 10th day of February 1948

Michael J. Flynn
County Clerk.

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 6th day of February, 1948, 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 ——— 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 ——— 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 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 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 ——— 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 17, 1951.

R. W. Spangenberg
R. W. SPANGENBERG
Notary Public in and for the State of Illinois, County of Cook.

STATE OF WISCONSIN)
Department of State) ss.

Received this 11th day of February, A.D. 1948, at 10:00 o'clock A.M., and recorded in Vol. 40 of Railroad Mortgages on pages 291-322 incl.

Assistant Secretary of State

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 R. W. Spangenberg 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 10th day of February 1948

Michael J. Flynn
County Clerk.

W.I.S.

Executed in 22
Counterparts
Counterpart No 4

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD EQUIPMENT TRUST,
SERIES BB

Lease of Railroad Equipment

DATED AS OF APRIL 1, 1948

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

TO

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

Agreement

DATED AS OF APRIL 1, 1948

PAUL B. ROBB AND H. J. GROENER,
VENDORS

WITH

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

AND

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

THE DONNELLEY-MADDEN PRINTING COMPANY, 350 WEST ADDISON, CHICAGO

LEASE OF RAILROAD EQUIPMENT, dated as of April 1, 1948, between **CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO**, a corporation duly organized and existing under the laws of the United States of America, Trustee, as hereinafter mentioned (hereinafter called the Trustee), party of the first part, and **CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY**, a corporation duly organized and existing under the laws of the State of Wisconsin (hereinafter called the Railroad Company), party of the second part:

WHEREAS, by certain agreement, dated as of April 1, 1948, between Paul B. Robb and H. J. Groener, Vendors, Continental Illinois National Bank and Trust Company of Chicago, as Trustee, and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a counterpart original whereof is hereto annexed and made a part hereof, there was constituted "Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series BB," and 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 Railroad Company hereunder; and

WHEREAS, pursuant to the provisions of said Agreement, the railroad equipment hereinafter described 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:

That the Trustee, acting in pursuance of said Agreement, for and in consideration as well of the sum of One Dollar to it paid by the Railroad Company at or before the ensealing and delivery hereof, the receipt of which is here-

(Fee $23.00)

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by acknowledged, as of the rents and covenants hereinafter mentioned to be paid, kept and performed by the Railroad Company, has let and leased, and does hereby let and lease, to the Railroad Company all the railroad equipment of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series BB (which together with the additional and substituted equipment and replacements as herein and in said Agreement provided are hereinafter and in said Agreement collectively called the Trust Equipment), to wit:

OTHER LOCOMOTIVES.

1 2000 H. P., "B" Unit, Diesel Electric Passenger Locomotive, No. 21C.

FREIGHT TRAIN CARS.

1000 50-ton, all steel, hopper cars, Nos. 96,000 to 96,999, both inclusive,

together with such additional or substituted railroad equipment as may be acquired for said Trust and subjected to this Lease, as herein and in the Agreement provided.

The cost of all said equipment is estimated by the Railroad Company to be not less than $3,520,000.

In the event that the Vendors shall, as provided in Section 5 of Article I of the Agreement, acquire other new, standard gauge railroad rolling stock in substitution for, or in addition to, the original Trust Equipment above specifically described, such other new, standard gauge railroad rolling stock shall be included as part of the Trust Equipment and shall be subject to all terms and conditions of this Lease and of the Agreement in all respects as though it had been part of the original Trust Equipment herein described.

As and when the Trust Equipment shall from time to

time be transferred and delivered to the Trustee under said Agreement, the same shall be delivered to the Railroad Company, and shall upon such delivery to the Railroad 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 Railroad Company hereunder, in all respects as if the same had been so delivered simultaneously with the execution and delivery hereof.

And the Railroad Company, in consideration of the premises, by these presents covenants and agrees with the Trustee as follows:

First. The cost of the Trust Equipment, whenever used herein or in said Agreement, shall mean the cost of the purchase or construction of the Trust Equipment and shall consist solely of items which may properly be included in such cost under the investment accounting rules of the Interstate Commerce Commission.

The Railroad Company hereby accepts (subject to the conditions mentioned in said Agreement) 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 the Railroad Company covenants and agrees to pay to the Trustee or its assigns (or in the case of taxes to the proper taxing authority) rent hereunder which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable:

(a) From time to time, at or before the delivery of any of the Trust Equipment to the Railroad Company as advance rental, amounts in cash equal to not less than twenty-five per cent (25%) of the cost of the Trust Equipment so delivered, as certified to the Trustee.

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(b) If seventy-five per cent (75%) or the aggregate cost of all of the Trust Equipment which shall then and theretofore have been delivered and accepted hereunder shall exceed $2,640,000, an amount in cash as advance rental, which, with all other payments previously made under the foregoing clause (a) and this clause (b), shall equal the difference between $2,640,000 and the aggregate cost of all Trust Equipment which then and theretofore shall have been delivered hereunder as aforesaid.

(c) The necessary and reasonable expenses of the trust, including the proper compensation of the Trustee and its counsel for their services and all expenses and liabilities connected with the Trust Equipment and this Lease thereof.

(d) Any and all taxes, assessments and other governmental charges upon the income or property of the trust, or said Agreement evidencing the same, which the Trustee by law may be required to pay, and any and all taxes, assessments and other governmental charges (other than Federal Income Taxes) which the Railroad Company or the Trustee may be required to pay or to retain from the principal of the Trust Certificates issued as provided in said Agreement (hereinafter called the Trust Certificates) or from the dividends thereon, under any present or future law of the United States of America or any state, county, municipality or other lawful taxing authority thereto.

(e) The dividend warrants attached to and the dividends payable on the Trust Certificates when and as the same shall become payable.

(f) The principal of the Trust Certificates when and as the same shall become 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, interest on such unpaid dividends, dividends and interest on such unpaid principal at the rate of six per cent (6%) per annum from the date of default to the date of payment; and

dend warrants and principal at the same rate per annum as provided in the dividend warrants.

(h) If the Trustee shall invest funds of the Trust in United States Government securities, as provided in the Agreement, the amount, if any, by which the selling price of said securities including any accrued interest and premium plus any interest paid to the Trustee on such securities is less than the purchase price thereof including any accrued interest and premium.

The Railroad Company shall not be required, however, to pay any tax, assessment or other governmental charge, so long as the Railroad 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 Trust Certificate holders may be materially endangered.

All rentals payable hereunder shall be payable at the principal office of the Trustee in the City of Chicago, State of Illinois, in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts.

Anything herein contained to the contrary notwithstanding, the Trustee shall, for all purposes of this Lease and said Agreement, accept as the cost of any of the Trust Equipment the respective amounts certified to it pursuant to, or in like manner as required by subdivision (b) of Section 4 of Article I of said Agreement. In case any certificate furnished pursuant to said subdivision (b) of said Section 4 or of this Lease shall state that the cost of the equipment therein referred to is tentatively determined subject to final adjustment, such certificate shall nevertheless be accepted and acted upon, pending adjustment.

Second. This Lease shall continue in force until the rent so paid hereunder shall furnish moneys sufficient to meet,

discharge and cancel all the interests in said Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series BB, created in respect of the Trust Equipment, and the dividends thereon, as well as the other payments and charges aforesaid. At the termination of this Lease and after all such payments required hereby shall have been completed and fully made to the Trustee, the Trust Equipment hereby leased, whether the same shall be delivered to the Railroad Company simultaneously with or after the execution hereof, shall at the option of the Railroad Company be assigned and transferred by the Trustee to the Railroad Company or its nominee or nominees and shall thereupon be and become the absolute property of the Railroad 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 Railroad Company but title to and ownership of all the Trust Equipment shall be reserved to and remain in the Trustee, notwithstanding the delivery of the Trust Equipment to, and the possession and use thereof by, the Railroad Company.

Third. Upon the written request of the Railroad Company, signed by the President or the Vice-President and Comptroller of the Railroad Company, stating that the use of any of the Trust Equipment, by reason of its character or the business of the Railroad Company, is no longer profitable to, or required by the Railroad Company, the Trustee may, in its sole discretion, while the Railroad Company is not in default hereunder, execute and deliver a bill of sale assigning and transferring to a purchaser or purchasers found by the Railroad Company the absolute title to such of the Trust Equipment; provided, however, that none of the Trust Equipment shall be so assigned or transferred unless simultaneously with the delivery of such bill of sale the Trustee shall receive

from such purchaser or purchasers the agreed purchase price thereof and from the Railroad Company a sum in cash equal to the amount, if any, by which the cost determined as herein provided of the Trust Equipment so assigned and transferred, less depreciation, exceeds said purchase price. For all purposes of this lease and said Agreement, depreciation on the Trust Equipment, or any thereof, shall not exceed an amount equal to ¾ of 1 per cent of the cost thereof, determined as herein provided, for each calendar month between the date of delivery of such Trust Equipment to the agent of the Trustee and the date as of which depreciation is to be determined. Simultaneously with the delivery of such written request of the Railroad Company there shall also be delivered to the Trustee a certificate of the President or the Vice-President and Comptroller of the Railroad Company, stating the amount of such agreed purchase price of the Trust Equipment to be assigned and transferred and the amount of such depreciation (not in excess of the amount above stated) accrued upon such Trust Equipment. The sums so paid to the Trustee shall be held by it in trust for the equal and proportionate benefit of the bearers of the Trust Certificates and dividend warrants, until paid out by the Trustee upon like written request of the Railroad Company for the purchase by the Trustee of new standard gauge railroad rolling stock, free from liens, except the liens, if any, of the First Mortgage and/or of the General Mortgage of the Lessee on such right, title and interest as the Railroad Company may have in or to such rolling stock and which shall be in all respects subordinate to the right, title and interest of the Trustee therein and thereto, and upon the delivery of such new equipment to the Trustee accompanied by a bill or bills of sale, warranty or warranties, an opinion of counsel and a certificate as to delivery and cost.

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in like manner as is provided in Section 4 of Article I of said Agreement. Any new equipment so acquired and substituted shall be marked in accordance with the provisions of Article Fourth hereof and immediately upon being so marked shall be part of the Trust Equipment, subject to all of the terms and conditions hereof and of said Agreement in all respects as though it had been part of the original Trust Equipment herein described, and the Railroad Company and the Trustee shall execute, and the Railroad Company shall file and/or record as required by law, a supplemental lease thereof, describing the same, upon and subject to all terms and conditions hereof. The term "Trust Equipment," wherever used herein, unless otherwise indicated by the context, is intended to include any new equipment so acquired or otherwise subjected to this Lease or required or intended so to be.

Fourth. At or before delivery to the Railroad Company of the Trust Equipment, there shall be plainly, distinctly, permanently and conspicuously placed and fastened upon each side of each unit of the Trust Equipment a metal plate bearing the following words, with appropriate changes thereof or additions thereto as from time to time may be required by law in order to protect the interest of the Trustee, or such words shall be otherwise plainly, distinctly, permanently and conspicuously marked on each side of each thereof, in either case in letters not less than one-half inch in size:

> "Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series BB, Continental Illinois National Bank and Trust Company of Chicago, Trustee, Owner and Lessor."

Such plate or marks shall be such as to be readily visible and as to indicate plainly the Trustee's ownership of said 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 Railroad Company will immediately cause the same to be restored or replaced. The Railroad Company will not change, or permit to be changed, the numbers upon equipment covered by this Lease (nor any numbers which may be substituted as herein provided), except in accordance with a statement of new numbers to be substituted therefor, which shall previously have been filed with the Trustee by the Railroad Company. In any such case, if the same be feasible, or necessary, the Railroad Company will at its expense cause to be made such notation on or addition to the record of this Lease as may be proper to preserve or protect the record title of the Trustee to such equipment.

The Trust Equipment may be lettered, "Chicago, Milwaukee, St. Paul and Pacific Railroad," "St. Paul," "Milwaukee," "C. M. St. P & P. R. R.," or in some other appropriate manner, for convenience of identification of the leasehold interest of the Railroad Company, its successor or successors therein, but the Railroad 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 Railroad Company or by any person, association or corporation, other than the Trustee.

Fifth. (a) The Railroad Company, during the continuance of this Lease, will maintain and keep, at its own cost and expense, all of the Trust Equipment in good order and repair (the damage to be made good including, without limitation, damage by collision, fire or explosion), and will replace, at its own cost, any of the Trust Equipment that may be worn out, lost, destroyed or rendered unfit for use, by new standard gauge railroad rolling stock of substan-

tially as good material, construction and of equal value, the value of the new rolling stock to be figured at cost, determined as provided in Article First hereof, if that be below market value, or at market value if that be below such cost. For the purpose of this Article Fifth the value of such replaced equipment shall be taken to be the cost thereof, determined as provided in Article First hereof, less depreciation accrued thereon, computed as provided in Article Third hereof. The title to all rolling stock procured for such replacement shall be taken in the name of the Trustee, free from liens, except the liens, if any, of the First Mortgage and/or of the General Mortgage of the Railroad Company on such right, title and interest as the Railroad Company may have in or to such rolling stock and which shall be in all respects subordinate to the right, title and interest of the Trustee therein and thereto, and such rolling stock shall be marked in accordance with the provisions of Article Fourth hereof. At the time of every such replacement the Railroad Company shall deliver to the Trustee a certificate of the President or the Vice-President and Comptroller or an Assistant Comptroller of the Railroad Company, stating the value of the Trust Equipment so worn out, lost, destroyed or rendered unfit for use, determined as herein provided, and the cost and the reasonable market value of the equipment with which it is replaced, together with a bill or bills of sale, warranty or warranties, an opinion of counsel and a certificate as to delivery, in like manner as is provided in Section 4 of Article I of said Agreement.

Thereupon, such new equipment shall be deemed a part of the Trust Equipment, subject to all the terms and conditions hereof and of said Agreement, as though it had been originally a part of the Trust Equipment; but the Trustee and the Railroad Company shall execute a supplemental

lease thereof, describing the same, upon and subject to all of the terms and conditions hereof.

(b) The Railroad Company will during the continuance of this Lease keep all of the Trust Equipment insured against loss or damage by fire, and against other loss or damage the risk of which is customarily insured against by railroad companies, in such manner and to such proportion of the value thereof as is customarily insured by rail road companies. All of such insurance shall be payable to the Trustee as Trustee, Owner and Lessor and shall be in an insurance company or companies satisfactory to the Trustee. All the insurance premium or premiums shall and will be paid by the Railroad Company, and, in default of the the Railroad Company keeping such Trust Equipment so insured, the Trustee without impairment of its rights and remedies by reason of such default may make appropriate insurance from time to time and pay the premium or premiums therefor, but it shall not be required so to do, and in such event the Railroad Company shall and will pay to the Trustee the amount of the premium or premiums so paid, with interest at the rate of 6 per cent per annum from the time of payment. In case the Railroad Company fails to make and maintain such insurance and the Trustee insures the Trust Equipment or any part thereof as above provided, the title to the Trust Equipment shall, notwithstanding the making of all other payments hereunder or under said Agreement to be made by the Railroad Company, remain in the Trustee until the repayment of the amount so paid for insurance with interest from the time of payment, and the repayment of such amount is hereby expressly made one of the obligations to be performed before title to the Trust Equipment shall vest in the Railroad Company.

by accident or otherwise, and the number of units of Trust Equipment repaired during the previous year, and the number of units then undergoing repairs and in the shops for repairs, and the repairs needed on any of the Trust Equipment, specifying the Trust Equipment so in need of repair, classifying the repairs so needed according to a standard classification of repairs, in so far as practicable. Together with said statement the Railroad Company shall also furnish to the Trustee a statement signed by its Superintendent Car Department or an Assistant Superintendent Car Department, stating that in the case of all of the Trust Equipment repainted during the preceding year, the marks required by Article Fourth hereof have been preserved, or that the same when repainted has been again marked as required by said Article. The Trustee shall have the right, by its agents, (but shall not be obligated) to inspect the Trust Equipment once in every year during the continuance of this Lease.

(d) The Railroad Company covenants and agrees to indemnify and protect the Trustee in the use of any and all patented inventions employed in and about the Trust Equipment and to comply in all respects with the laws of the United States and of all the states in which the Trust Equipment or any thereof may be operated and with all lawful acts, rules, regulations and orders of the Interstate Commerce Commission and of all other commissions, boards and other legislative, executive or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including, but without limitation, all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; provided, however, that the Railroad Company may in good faith contest the validity of any such act, rule, regulation or order or the application thereof to the Trust Equipment or any part

by agreement of all parties having any interest therein and recover possession of such Trust Equipment within thirty days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said thirty days to deposit with the Trustee a sum in cash equal to the actual cost of the Trust Equipment so assigned or transferred or subleased, or thereof, in any such case (herein and in said Agreement sometimes called events of default) the Trustee may, and upon the request in writing of the bearers of not less than 20 per cent in principal amount of the Trust Certificates at the time outstanding shall, declare this Lease terminated. The election of the Trustee to terminate this Lease under this clause shall have the same effect as the retaking of the Trust Equipment by the Trustee as hereinafter provided. Upon the happening of an event of default, the Trustee may also, by its agents, enter upon the railroads and premises of the Railroad Company and take possession of all or any part of the Trust Equipment, and withdraw the same from said railroads and premises, retaining all payments which up to that time may have been made on account of rental for the Trust Equipment and otherwise

thereof, in any reasonable manner which will not, in the judgment of the Trustee, materially endanger the rights or interests of the Trustee or of the bearers of the Trust Certificates.

Sixth. The Railroad Company, so long as it shall not be in default under this Lease, shall be entitled to the possession of the Trust Equipment and the use thereof upon the lines of railroad owned by it or operated by it under lease or otherwise, or over which it has trackage rights, and upon those of any railroad company a majority of whose capital stock is at the time owned or controlled by the Railroad Company, and also upon connecting and other railroads in the usual interchange of traffic, from and after delivery of the Trust Equipment by the Trustee to the Railroad Company, but only upon and subject to all the terms and conditions of this Lease.

The Railroad Company will not either assign or transfer this Lease, or transfer or sublet the Trust Equipment or any part thereof, without the written consent of the Trustee first had and obtained; and the Railroad Company shall not, without such written consent, except as hereinbefore provided, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment.

Seventh. In case the Railroad Company

(1) shall make default in the payment of any part of said rent and such default shall continue for more than thirty (30) days after the same shall become due and payable, or

(2) shall make or suffer any unauthorized assignment or transfer of its rights or interest in, or any unauthorized sublease of, or, except as herein authorized, part with the possession of, the Trust Equipment, or any thereof, and shall fail or refuse either to cause such assignment or transfer or sublease to be canceled

and shall be entitled to collect, receive and retain all unpaid per diem, mileage or other charges of any kind earned by the Trust Equipment or any thereof, and may lease the Trust Equipment or any part thereof, or sell the same or any part thereof, so far as it may deem necessary or desirable to perform and fulfill the trusts under said Agreement, at public sale, for cash or upon credit, in its discretion, and otherwise proceed to enforce its rights and the rights of the owners of interests under said Agreement and under this Lease in the manner therein and herein provided; and upon such taking possession or withdrawal or lease or sale of the Trust Equipment, the Railroad Company shall cease to have any rights or remedies in respect of the Trust Equipment under this Lease, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Railroad Company; and no payments theretofore made by the Railroad Company for the rent or use of the Trust Equipment, or any of it, shall, in case of the happening of any such event of default and such taking possession, withdrawal, lease or sale by the Trustee, give to the Railroad Company any legal or equitable interest or title in or to the Trust Equipment, or any of it, or any cause or right of action, at law or in equity, in respect of the Trust Equipment against the Trustee or the owner of interests in said Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series BB; and such taking possession or withdrawal or lease or sale of the Trust Equipment by the Trustee shall not be a bar to the recovery by the Trustee from the Railroad Company of rentals then or thereafter due and payable, and the Railroad Company shall be and remain liable for the same, until such sum shall have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient

for the discharge and payment in full of all the various items mentioned in subdivision (a), (b), (c), (d), (e), (f), (g) and (h) of Article First hereof, whether they shall have been matured or not.

In case the Trustee shall rightfully demand possession of the Trust Equipment in pursuance of this Lease, and shall reasonably designate a point or points upon the railroad of the Railroad Company, or upon the railroad of any company a majority of whose capital stock is at the time directly or indirectly owned by the Railroad Company, for the delivery of the Trust Equipment to it, the Railroad 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 railroads 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 Railroad Company until the Trustee shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad 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 of equity having jurisdiction in the premises the Trustee shall be entitled to a decree against the Railroad Company requiring the specific performance thereof.

The remedies in this Lease and in said Agreement provided in favor of the Trustee and the holders of Trust Certificates, or any of them, shall not be deemed exclusive,

but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity, and may be exercised from time to time and as often and in such order as may be deemed expedient by the Trustee. No delay or omission of the Trustee in the exercise of any right or power accruing upon any event of default shall impair any such right or power or shall be construed to be a waiver of such event of default or an acquiescence therein.

If the Trustee shall exercise any of the powers or remedies conferred upon it hereunder, the Railroad Company shall have the right, after all rentals and other sums due hereunder to the Trustee shall have been received by the Trustee, to require title to such of the Trust Equipment as shall not previously have been sold, assigned, transferred or otherwise disposed of by the Trustee to others to be transferred and assigned by the Trustee to the Railroad Company free from any further liabilities or obligations to the Trustee hereunder. If after applying all sums of money received by the Trustee in the exercise of such powers or remedies there shall remain any amount due to the Trustee under the provisions of this Lease, the Railroad Company hereby agrees to pay to the Trustee the amount of such deficiency. If after applying as aforesaid all sums so received by the Trustee there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to the Railroad Company.

Eighth. The Railroad Company covenants that prior to the delivery to it of any of the Trust Equipment covered thereby it will cause this Lease and said Agreement, and thereafter from time to time any and all supplemental leases and agreements which may be executed pursuant to the terms hereof and of said Agreement, to be duly filed, registered or recorded and duly refiled, registered and rerecorded in each and every jurisdiction

required by law, in order to publish notice of and to protect the Trustee's title to the Trust Equipment and any additions or replacements, and from time to time will perform any other act required by law, and will execute any and all further instruments that reasonably shall be requested by the Trustee for such publication and protection of such title.

Ninth. Until it shall have discharged all its obligations under this Lease, the Railroad Company shall pay all costs, charges and expenses incident to the performance of all terms and conditions of this Lease and said 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, registering, recording and rerecording of this Lease and said Agreement and of any instrument of further assurance, and all stamp taxes and other taxes, duties, imposts, assessments, charges, fines and penalties of any kind imposed upon this Lease, said Agreement 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.

Tenth. This Lease 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.

Eleventh. This Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the Trustee, acting in accordance with the terms and conditions of said Agreement, and the

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_____, Vice-President and V. P. NELSON, 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 order and 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 Assistant Secretary in behalf of said corporation by like order and 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 _____
APRIL 8, 1952

W. G. EVERIST
Notary Public in and for the State of Illinois, County of Cook.

STATE OF ILLINOIS, } ss.
COOK COUNTY. }

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, the Illinois County that I am the lawful custodian of the official records of said County, and as such officer am duly authorized by the laws and ordinances of said County, to keep custody of and control over all records and papers appertaining to the office of said County Clerk; and that I have made careful search of the records of my said office and find that no notice of the pendency of any suit in the Circuit Court of said County, and no lis pendens, nor any record of any suit or proceeding affecting the title to real estate in said County, nor any record of any judgment, decree or order of any court affecting the title to real estate in said County, nor any record of any unsatisfied mechanic's lien against the property described in the annexed instrument, nor any record of any unsatisfied claim for taxes or special assessments against said property, except as follows: NONE

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County Court of Cook in the City of Chicago, in the said County, this 1st day of [illegible] A.D. 19[illegible]

[illegible] County Clerk.

Railroad Company have caused these presents to be duly executed, as of the day and year first above written.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,

By R. M. KIMBALL *Vice-President.*

Attest:

V. P. NELSON
Assistant Secretary.

Signed, sealed and delivered by Continental Illinois National Bank and Trust Company of Chicago in the presence of:

H. J. WAGNER

H. H. CONLEY *Attesting Witnesses.*

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

By J. W. SEVERS *Vice-President.*

Attest:

T. W. BURTNESS
Secretary.

Signed, sealed and delivered by Chicago, Milwaukee, St. Paul and Pacific Railroad Company, in the presence of:

R. K. Mahan

RUTH E. HALL

Attesting Witnesses. MERRILL

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, W. G. EVERIST, 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 7th day of April, 1948, 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 each to me personally known and known to me to be respectively, 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 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 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 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 T. W. BURTNESS, Secretary,

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, R. B. 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 this 7th day of April, 1948, 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 each to me personally known and known to me to be respectively, 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 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 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 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 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 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 17, 1951.

R. W. Spangenberg
R. W. SPANGENBERG,
Notary Public in and for the State of Illinois, County of Cook.

Form 12A

STATE OF ILLINOIS, COUNTY OF COOK, ss.

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, Do Hereby Certify that I am the keeper 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, 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, mortgages or hypothecations, 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 12 day of April A.D. 1948.

Michael J. Flynn
County Clerk.

THIS AGREEMENT, dated as of April 1, 1948, by and between PAUL B. ROSS and H. J. GROENER (hereinafter called the Vendors), of the first part, CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO (hereinafter called the Trustee), as Trustee, of the second part, and CHICAGO, MILWAUKEE, ST. PAUL and PACIFIC RAILROAD COMPANY (hereinafter called the Railroad Company), of the third part, WITNESSETH as follows:

WHEREAS, the Vendors have acquired or will acquire the railroad equipment (which together with the additional or substituted equipment and replacements as in the Lease and this Agreement provided are hereinafter called the Trust Equipment) specifically described in the Lease of Railroad Equipment from the Trustee to the Railroad Company prefixed to this Agreement, to which Lease reference is hereby made; and

WHEREAS, subscriptions have been or are being secured, in an amount not exceeding $2,640,000 to a fund to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series BB, which said fund is to be deposited with the Trustee and applied by the Vendors or upon their written order in part payment on account of the cost of the Trust Equipment; and

WHEREAS, the Vendors desire to secure to the subscriber or subscribers to said fund, or their assigns, the payment of the amount thereof in twenty semiannual installments of $132,000 each, payable respectively on April first and October first, in each year, beginning on October 1, 1948, and ending on April 1, 1958, as hereinafter more particularly provided, with dividends to said dates of maturity respectively as hereinafter provided; 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 Railroad Company is desirous of securing the use of the Trust Equipment upon and in connection with the properties of the Railroad Company; and

WHEREAS, the Railroad Company represents that all things necessary to make the guaranty of the Railroad Company as endorsed upon the Trust Certificates, when said Certificates shall be issued by the Trustee under this Agreement, the binding, valid and legal obligation of the Railroad Company, as herein provided, and to make this Agreement and said 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 I.

SECTION 1. 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 of the Trust Certificates hereinafter described, the Trust Equipment described or referred to in said Lease prefixed hereto when and as the Trust Equipment or any part thereof is constructed or completed or otherwise acquired. The Vendors will deliver, or cause to be delivered, the Trust Equipment or any part thereof when and as constructed or 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 or agents of the Railroad Company, and the certificate of any and every agent so designated shall be conclusive evidence of such delivery. The Trustee and the Railroad Company, simultaneously

with the execution of this Agreement, have executed and delivered said Lease of all the Trust Equipment.

SECTION 2. The Trustee shall at any time, or from time to time, upon written request of the Vendors, without waiting for the recording, registration or filing of this agreement, or of any lease of or other instrument respecting the equipment subjected to this Agreement, execute and deliver to the subscriber or subscribers to said fund, as specified in such request, certificates to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust Certificates, Series BB, herein called the Trust Certificates, upon the deposit in cash with the Trustee of a sum equal to the principal amount and accrued dividends to date of delivery of the Trust Certificates the execution and delivery of which shall be so requested and not less than the net proceeds of the sale of said Trust Certificates.

Any interest allowed by the Trustee or earned upon any money so deposited shall be added to said fund and become a part of the Deposited Cash to be disposed of as hereinafter provided. All moneys paid to the Trustee as accrued dividends upon the original issuance and delivery of any Trust Certificates shall be held by the Trustee until the next ensuing dividend payment date, and thereupon shall be applied by the Trustee to the payment of any dividends then due, as if such moneys were paid to the Trustee by the Railroad Company as rent pursuant to Article First of said Lease for application as in subparagraph (c) thereof provided.

SECTION 3. The term Deposited Cash, whenever used herein, shall mean and include (a) the cash deposited with or to the credit of the Trustee constituting said fund, or a part thereof, as in Section 2 of this Article I provided (including any interest allowed or earned thereon, but excluding any accrued dividends paid upon the original issu-

ance of Trust Certificates), and (b) all installments of rental paid pursuant to subdivisions (a) (b) of Article First of said Lease. The Deposited Cash shall, until paid out by the Trustee as herein provided, be held in trust for the benefit of the bearers of the Trust Certificates. Thereafter, from time to time, when and as any of the Trust Equipment shall have been delivered to the Trustee, the Trustee shall pay to the Vendors, or upon their order, out of the Deposited Cash, an amount equal to the cost of the equipment so delivered to the Trustee, such cost to be conclusively established (subject to the provisions of Section 4 of this Article I) by the certificate in writing of the Railroad Company by its duly designated representative, delivered to the Trustee prior to or contemporaneously with such payment.

SECTION 4. The Trustee shall not pay out any Deposited Cash as provided by Section 3 of this Article I against the delivery of any of the Trust Equipment unless and until it shall have received:

(a) a certificate of the agent or agents designated by the Trustee to receive delivery of the Trust Equipment, stating that Trust Equipment specified by numbers in such certificate has been delivered to such agent or agents and stating that the Trust Equipment specified by numbers in such certificate has been marked in accordance with the provisions of Article Fourth of said Lease;

(b) a certificate of the Railroad Company, signed by the President or the Vice-President and Comptroller or an Assistant Comptroller of the Railroad Company, certifying that the cost of such Trust Equipment, determined as provided in said Lease, is the amount therein specified;

(c) a bill or bills of sale of such Trust Equipment from the manufacturer, or from the Railroad Company if the Railroad Company shall have constructed and/or is conveying the Trust Equipment described in such bill or bills of sale, to the Vendors and from the Ven-

dors to the Trustee, such bill of sale by the manufacturer to contain or be accompanied by a warranty or guaranty of the manufacturer that the title to the Trust Equipment described therein is free from any liens or encumbrances, such bill of sale from the Railroad Company to contain or be accompanied by a warranty or guaranty of the Railroad Company that the title to the Trust Equipment described therein is free from any liens or encumbrances or that it is free from any lien or encumbrance except the liens, if any, of the First Mortgage and of the General Mortgage of the Railroad Company, and that pursuant to the provisions in said mortgages contained, they have been released or subordinated as to such Trust Equipment to secure or confirm the prior right, charge, lien or title of the Trustee in this Agreement and in the Lease hereto prefixed to such equipment; and

(d) an opinion of counsel satisfactory to the Trustee that such bill or bills of sale and deliveries are valid and effective, either alone or in connection with any other instrument executed in connection therewith, to vest in the Trustee, free from all liens and encumbrances, the title so transferred to the Trustee, or with respect to title transferred by the Railroad Company, that it is free from any lien or encumbrance or that it is free from any lien or encumbrance except the liens, if any, of the First Mortgage and of the General Mortgage of the Railroad Company, and that the liens of each of the mortgages of the Railroad Company, pursuant to the provisions in said mortgages contained, have been subordinated as to such Trust Equipment to secure or confirm the prior right, charge, lien or title of the Trustee in this Agreement and in the lease hereto prefixed to such equipment in the manner and terms set forth in the respective Release and Subordination Agreements executed by the respective trustees of said mortgages and which are identified and referred to in such opinion of counsel.

Any such certificate or certificates as to cost may state that the cost of the Trust Equipment therein referred to is tentatively determined, subject to final adjustment, and

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in that case, adjustments may be made by certificates thereafter filed. A final certificate, signed as provided in paragraph (b) above, as to the cost of all the Trust Equipment shall be delivered to the Trustee by the Vendors not later than April 1, 1949.

SECTION 5. In the event that, owing to the imposition of restrictions by the United States Government, or any governmental bureau, commission, or agency having authority in the premises, the Vendors shall be unable to acquire any and all of the Trust Equipment specifically described in the Lease, the Vendors may cause to be built or acquired, if available, and in such event shall sell, assign, transfer, and set over, or cause to be sold, assigned, transferred, and set over unto the Trustee, subject to the provisions of the foregoing Section 4 of this Article I, other new, standard gauge railroad equipment, of such classes or types, and of such material and construction, as may be approved by the Railroad Company; provided, however, that the Trustee shall not acquire work equipment, except in substitution for work equipment described in the Lease.

In the event that the aggregate cost of the Trust Equipment specifically described in the Lease, and of any equipment that may be substituted therefor in accordance with the provisions of the foregoing paragraph, acquired by the Trustee hereunder, shall not amount to at least $3,520,000, then the Vendors shall cause to be built or acquired, if available, and, in such event, shall sell, assign, transfer and set over, or cause to be sold, assigned, transferred and set over unto the Trustee, subject to the provisions of the foregoing Section 4 of this Article I, other new, standard gauge railroad equipment, other than work equipment, of such classes or types, and of such material and construction, as may be approved by the Railroad Company, and of such cost that the aggregate cost of all the Trust Equipment will be at least $3,520,000.

In case any substituted or additional equipment shall be acquired and transferred to the Trustee in accordance with either of the preceding two paragraphs, the Trustee shall execute to the Railroad Company a supplemental lease of such substituted or additional equipment, describing the same, upon and subject to the terms and conditions hereof and of the Lease, and such substituted or additional equipment shall be part of the Trust Equipment, subject to all the terms and conditions of this Agreement and the Lease in all respects as though it had been part of the original Trust Equipment specifically described in the Lease.

SECTION 6. The Trustee shall, on request of the Railroad Company, invest and keep invested all, or such part of the Deposited Cash not needed by it to pay for Trust Equipment delivered or about to be delivered, as may be designated by the Railroad Company, in such United States Government securities as it may designate. The Trustee, with or without the request of the Railroad Company, may from time to time sell, at the prevailing market prices, such amount of such securities as it may deem necessary to provide cash to pay for Trust Equipment delivered, or about to be delivered, and may, with or without such request, at any time or from time to time, sell at such prices, all or part of such securities, if by reason of a declining market therefor, it believes there is danger of the securities going below par. The Trustee shall sell any such United States Government securities, held by it, when directed by the Railroad Company. The Railroad Company covenants and agrees that, if the selling price of said securities including any accrued interest and premium, plus any interest paid to the Trustee on such securities, is less than the purchase price thereof, including any accrued interest and premium, the Railroad Company shall forthwith pay to the Trustee the amount of such deficiency as rental, as provided in Paragraph First of the Lease. All interest

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received by the Trustee on such securities, and all proceeds of the sale thereof, including premium and accrued interest, if any, shall constitute part of Deposited Cash.

SECTION 7. Anything in this Article 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 principal sum of $2,640,000 at any one time outstanding (subject, however, to the provisions of Section 6 of Article II of this Agreement).

SECTION 8. Any moneys held by the Trustee after delivery of and payment for all of the Trust Equipment, the disposition of which is not herein or in said Lease otherwise provided for, shall be credited against the next installment of rental payable under Section (f) of Article First of said Lease.

ARTICLE II.

SECTION 1. Each of the definitive Trust Certificates shall represent an interest in the amount of One Thousand Dollars ($1,000) in the trust of the Trust Equipment hereby created, and the bearer of any trust certificate, whether definitive or temporary, shall be entitled to receive dividends on said amount at the rate of ___2½___ per cent per annum from April 1, 1948, payable semiannually on the first day of April and October in each year. $132,000 principal amount of the Trust Certificates shall become due and payable on April 1 and October 1 in each year beginning on October 1, 1948, and ending on April 1, 1958. Each of said Trust Certificates shall have endorsed thereon the guaranty of the Railroad Company in the form hereinafter set forth.

The due date of each Trust Certificate shall appear on its face. The definitive Trust Certificates shall be numbered from 1 consecutively upward to 2640, both inclusive.

Dividend warrants evidencing the right of the holders of the Trust Certificates to the dividends thereon shall be annexed to the respective definitive Trust Certificates. All dividends on the respective Trust Certificates shall cease after the principal thereof shall have become due.

Trust Certificates if temporary may be printed and if definitive shall be lithographed, lithographically printed or engraved.

SECTION 2. The definitive Trust Certificates, the dividend warrants to be annexed thereto and the guaranty to be endorsed thereon by the Railroad Company as hereinafter in Article III provided shall be in substantially the following forms:

(Form of Trust Certificate.)

No._____ $1,000

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD EQUIPMENT TRUST.

Series BB.

Total Issue not to exceed $2,640,000.

Dividends at the rate of _____ Per Cent per Annum.
Payable April 1 and October 1.

Continental Illinois National Bank and Trust Company of Chicago,
Trustee.

Principal Hereof Due _____1, 19____.

Continental Illinois National Bank and Trust Company of Chicago, as Trustee under an agreement dated as of April 1, 1948 (hereinafter referred to as the "Agreement"), between Paul B. Robb and H. J. Groener, of the first part, Continental Illinois National Bank and Trust Company of Chicago, Trustee (hereinafter referred to as the "Trustee"), of the second part, Chicago, Milwaukee, St. Paul and Pacific

Railroad Company (hereinafter referred to as the "Railroad Company"), of the third part, hereby certifies that the bearer hereof is entitled to an interest of One Thousand Dollars in Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series BB, payable on _____ 1, 19____, unless prior payment hereof be required as hereinafter provided, and to dividends thereon at the rate of _____ per cent (____%) per annum from April 1, 1948, to said date of maturity, payable semiannually on April first and October first 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 City of Chicago and State of Illinois, or at the agency of the Trustee in the Borough of Manhattan, in the City and State of New York, in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts, all without deduction for any tax, assessment or other governmental charge (other than Federal income taxes) which the Railroad Company or the Trustee may be required to pay, or to retain therefrom, under any present or future law of the United States of America, or of any state, county, municipality or other lawful taxing authority therein, but only from and out of rentals or other moneys received by the Trustee from a certain Lease of Railroad Equipment made by Continental Illinois National Bank and Trust Company of Chicago, Trustee, to the Railroad Company, dated as of April 1, 1948.

This certificate is one of an issue of certificates, in bearer form, in an aggregate principal amount not exceeding $2,640,000, substantially identical except as to dates of maturity, all issued or to be issued under said Agreement. The terms of the Agreement further provide that said railroad equipment (or deposited cash and United States Government securities in lieu thereof as provided in said Agreement) and said Lease thereof are to be held by the Trustee in trust for the benefit of the bearers of said certificates.

Reference is hereby made to said Agreement and Lease, filed with the Trustee at its office in the City of Chicago, for a further statement of the rights of the bearers of said certificates thereunder.

This certificate and the attached dividend warrants are issued subject to the condition, and every holder of this certificate or of any such dividend warrants, by accepting the same, agrees with every subsequent holder hereof and with the Trustee and the Railroad Company, that delivery of this certificate or any such dividend warrant by any 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 a negotiable instrument payable to bearer and the Trustee and the Railroad Company shall be entitled to treat the bearer hereof or the bearer of 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 the Railroad 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.

IN WITNESS WHEREOF, the Trustee has caused this certificate to be signed by one of its Vice-Presidents, and its corporate seal to be hereunto affixed and to be attested by its Secretary or an Assistant Secretary, and dividend warrants bearing the facsimile signature of one of its Assistant Secretaries to be attached hereto, as of the first day of April, 1948.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,
As Trustee,

By_____
Vice-President.

Attest:

_____
Assistant Secretary.

(Form of Dividend Warrant.)

$_____ No._____

Due to the bearer hereof on the first day of_____, 19——, on surrender hereof at the office or agency of the undersigned Trustee in the City of Chicago and State of Illinois, or at its agency in the Borough of Manhattan, City and State of New York, _____ and _____ Dollars, without deduction for any tax or taxes (other than Federal income taxes) required to be paid or retained, as provided in, and being the semi-annual dividend then due on, Certificate No. _____ of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series BB, payable only out of rentals received by the Trustee under the Lease referred to in said certificate.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,
as Trustee,

By_____
Assistant Secretary.

(Form of Guaranty.)

Chicago, Milwaukee, St. Paul and Pacific Railroad Company, for a valuable consideration, hereby unconditionally guarantees to the bearer of the within Certificate, as provided in the Agreement referred to in said Certificate, the prompt payment of One Thousand Dollars, being the principal of said Certificate, when the same shall become due and payable, whether at the maturity thereof or by declaration or otherwise, and the dividends thereon at the rate of _____ per cent per annum on the semiannual dates mentioned in said Certificates and in the dividend warrants thereunto attached, all in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,
By_____
Authorized Agent.

SECTION 3. The Trust Certificates shall be signed in the name and on behalf of the Trustee by one of its Vice-Presidents, and its corporate seal shall be thereunto affixed and attested by its Secretary or one of its Assistant Secretaries. In case any of the officers of the Trustee who shall have signed and sealed any of the Trust Certificates shall cease to be such officers of the Trustee before the Trust Certificates so signed and sealed shall have been issued and delivered by the Trustee, such Trust Certificates shall be adopted by the Trustee and be issued and delivered as though the persons who signed and sealed such Trust Certificates had not ceased to be such officers of the Trustee. The dividend warrants to be thereunto attached shall be authenticated by the facsimile signature of the present or any future Assistant Secretary of the Trustee, and the Trustee may adopt and use for that purpose any such facsimile signature notwithstanding the fact that such Assistant Secretary may have ceased to be such Assistant Secretary at the time when any such Trust Certificate shall be issued and delivered as herein provided. Before executing and delivering any Trust Certificates the guaranty of the Railroad Company shall be duly executed thereon as hereinafter in Section 2 of Article III provided, and all matured dividend warrants thereto appertaining shall be cut off and canceled and delivered by the Trustee to the Railroad Company.

SECTION 4. Trust Certificates shall be in bearer form and shall pass by delivery.

Dividends upon the Trust Certificates shall be payable only upon presentation and surrender of the appropriate dividend warrants, or, in the case of temporary Trust Certificates without warrants, only upon presentation of such temporary Trust Certificates for a notation of such payment thereon.

Anything to the contrary herein notwithstanding, the parties hereto may deem and treat the bearer of any Trust Certificate 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.

SECTION 5. Temporary printed Trust Certificates, with or without dividend warrants, in such form and denominations as the Trustee may determine, may be issued by the Trustee, having endorsed thereon said guaranty of the Railroad Company, which shall be exchangeable, without cost, upon surrender for definitive Trust Certificates, of equal principal amount and of the same maturity or maturities and having endorsed thereon said guaranty of the Railroad Company, when the same shall have been prepared. 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 Railroad Company.

SECTION 6. In case any Trust Certificate, or the dividend warrants thereto attached, shall become mutilated or defaced or be lost, destroyed or stolen, then on the terms herein set forth, and not otherwise, the Trustee shall execute and deliver a new Trust Certificate (and the Railroad Company shall execute its guaranty thereon), with all unmatured dividend warrants, if any, appertaining thereto, of like maturity, tenor and date, and bearing the same serial number as the one mutilated, defaced, lost, destroyed or stolen, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Trust Certificate and warrants, or in lieu of and substitution for the same if lost, destroyed or stolen, and make payment of any

matured dividend warrants appertaining to the same. The applicant for a new Trust Certificate shall furnish to the Trustee and to the Railroad Company evidence to their satisfaction of the loss, destruction or theft of said Trust Certificate or warrants alleged to have been lost, destroyed or stolen and of the ownership and authenticity of such mutilated, defaced, lost, destroyed or stolen Trust Certificate and warrants, and also such security or indemnity as may be required by the Trustee and by the Railroad 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, defaced, lost, destroyed or stolen 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.

ARTICLE III.

SECTION 1. The Railroad 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 may be liable, and all taxes (other than Federal income taxes) which the Trustee or the Railroad Company may be required to pay or to retain from the principal of the Trust Certificates or the dividends payable in respect thereof, under any present or future law of the United States of America or of any state, county, municipality or other lawful taxing authority therein.

SECTION 2. The Railroad Company covenants and agrees and unconditionally guarantees that the bearer of each of the Trust Certificates shall receive the principal amount

thereof, in such coin or currency of the United States of America as, at the respective times of payment, is legal tender for public and private debts, when and as the same shall become due and payable, whether at the maturity thereof or by declaration or otherwise (and, if not so paid, with interest thereon at the same rate per annum as provided in the dividend warrants), and shall receive dividends thereon in like coin or currency at the rate of 2½ per cent per annum from April 1, 1948, to the date of maturity of such Trust Certificate, at the times and places and otherwise as expressed in the Trust Certificates and the warrants thereto attached (and if not so paid, with interest thereon at the same rate per annum as provided in the dividend warrants); all without deduction for any tax, assessment or other governmental charge (other than Federal income taxes) which the Railroad Company or the Trustee may be required to pay, or to retain therefrom, under any present or future law of the United States of America, or of any state, county, municipality or other lawful taxing authority therein, and the Railroad Company further covenants and agrees to endorse upon each of the Trust Certificates, definitive or temporary, at or before the issue and delivery thereof by the Trustee, its unconditional guaranty of the prompt payment of the principal thereof and of the dividends thereon, in substantially the form in Section 2 of Article II hereof provided. Said guaranty so endorsed shall be signed in the name and on behalf of the Railroad Company by such officer or officers as shall have been duly authorized by the Board of Directors of said Railroad Company to sign upon its behalf. In case any of the officers of the Railroad Company who shall have signed such guaranty shall cease to be such officers of the Railroad Company before the Trust Certificates shall have been actually issued and delivered by the Trustee, such guaranty shall never-

theless be as effective and binding upon the Railroad Company as though the persons who signed such guaranty had not ceased to be such officers of the Railroad Company.

ARTICLE IV.

SECTION 1. The Railroad 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 lien or charge upon or against any of the Trust Equipment, except upon the leasehold interest of the Railroad 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 the holders of the Trust Certificates in the Trust Equipment.

SECTION 2. The Railroad 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, the expenses incident to the preparation, execution and exchange of the Trust Certificates and dividend warrants, including the temporary Trust Certificates, or connected with the preparation, execution, recording, registration and filing hereof or of said Lease or of any instruments executed under the provisions hereof or of said Lease in respect of the Trust Equipment or Lease, or any equipment or parts used to replace any of the same.

SECTION 3. The Railroad Company covenants and agrees with all convenient speed to cause this Agreement and said

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Lease and any supplemental leases and agreements which may be executed under the terms of this Agreement, or of said Lease, to be duly filed or recorded in all states wherein are situated railroad lines which the Railroad Company operates or to which it has title or over which it has trackage rights, or wherein are situated railroad lines of any railroad company a majority of whose capital stock is owned or controlled by the Railroad Company, and otherwise as may now or hereafter be provided by law for the full protection of the title and rights of the Trustee and of the holders of the Trust Certificates, so that this Agreement and said Lease and all other such supplemental instruments may at all times be duly filed and recorded.

SECTION 4. The Railroad Company covenants and agrees from time to time to do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and said Lease and the intent thereof.

ARTICLE V.

SECTION 1. In order to prevent any accumulation of Trust Certificates or of dividend warrants after maturity, neither the Trustee nor the Railroad Company shall directly or indirectly extend or assent to the extension of the time for the payment of any Trust Certificate 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 Railroad Company shall directly or indirectly be a party to or approve of any arrangement for purchasing or funding any of said Trust Certificates 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 or dividend warrant shall be so extended, whether or not such extension be by or with the consent of the Trustee or the Railroad 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 Railroad 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 Railroad Company, such Trust Certificate, dividend or dividend warrant shall not be entitled to the benefit of said Lease or of this Agreement, except subject to the prior payment in full of the principal of all other Trust Certificates, dividends and dividend warrants, whether the same be then matured or unmatured.

SECTION 2. In case one or more of the events of default described in Article Seventh of said Lease shall happen, the Trustee in its discretion may, and at the request of the bearers of twenty per cent (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 (so far as may be necessary to perform the trusts hereunder), at public sale, for cash or upon credit, as the Trustee may deem most beneficial to the interest of the bearers of said Trust Certificates. Upon the written request of the bearers of twenty per cent (20%) in principal amount of the Trust Certificates at the time outstanding, in case one or more of said events of default shall happen (whether

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the principal of the Trust Certificates shall have been declared due and payable or not), it shall be the duty of the Trustee upon being indemnified as hereinafter provided to take all steps for the protection and enforcement of its rights and the rights of the bearers of the Trust Certificates, and to exercise one or more of the powers of entry, sale or lease in said 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 interest of the bearers of the Trust Certificates; but, anything in this Agreement to the contrary notwithstanding, upon indemnity satisfactory to the Trustee the bearers of a majority in principal amount of the Trust Certificates then outstanding shall have the right from time to time to direct what proceedings for any enforcement of said Lease and this Agreement and the sale or lease of the Trust Equipment shall be taken by the Trustee. The proceeds of such proceedings or lease or sale shall be applied by the Trustee to the payment after deducting the expenses of the trust and reasonable compensation of the Trustee and all taxes, assessments and other governmental charges which the Trustee may by law be required to pay in respect of the trust or the Trust Certificates aforesaid or the dividends thereon:

(1) of the dividends and dividend warrants then due with interest on any overdue dividends and dividend warrants at the same rate per annum as provided in the dividend warrants; and

(2) of the principal of all said outstanding Trust Certificates with interest thereon at the same rate per annum as provided in the dividend warrants, from the last preceding dividend date, whether said Certificates or any of them shall then have matured by their terms or not;

all of said payments to be in full, if said proceeds shall be sufficient and if not, then *pro rata*, without preference of

principal over dividends, or of dividends over principal or otherwise (subject, however, to the provisions of Section 1 of this Article V), and without regard to the dates of maturity thereof.

The foregoing provisions, however, are subject to the condition that, if at any time after the principal of the Trust Certificates shall have been declared and have become due and payable, as hereinbefore provided, but before April 1, 1958, all arrears of rental (with interest upon any overdue instalment at the same rate per annum as provided in the dividend warrants), the expense and reasonable compensation of the Trustee and all other sums which shall have become due and payable by the Railroad Company hereunder or under said Lease (other than the principal of Trust Certificates and rental instalments which shall not at the time have matured according to their terms) shall be paid by the Railroad Company before any taking possession, withdrawal, sale or lease by the Trustee of any of the Trust Equipment, and every other default in the observance or performance of any covenant or condition of this Agreement or said Lease shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then and in every such case the Trustee, if so requested by the bearers of a majority in principal amount of the Trust Certificates then outstanding and which shall not have been matured according to their terms, shall, by written notice to the Railroad Company, waive the default by reason of which the principal of the Trust Certificates shall have been declared and become due and the consequences of such default, and said Lease shall upon such waiver be and continue in full force and effect, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

Neither such retaking possession nor any withdrawal or

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lease or sale of the Trust Equipment by the Trustee nor any action or failure or omission to act, against the Railroad Company or in respect to the Trust Equipment, on the part of the Trustee or on the part of any bearer of any Trust Certificate or dividend warrant, nor any delay or indulgence granted to the Railroad Company by the Trustee or any such bearer, shall affect the obligations of the Railroad Company under this Agreement or under said Lease or under its guaranty.

The Railroad Company waives presentation and demand in respect of any of the Trust Certificates and dividend warrants and waives notice of presentation and demand and of any default in the payment of principal of and dividends upon the Trust Certificates.

The Trustee may at any time, upon notice in writing to the Railroad Company, apply to any court of competent jurisdiction for instructions as to the application and distribution of any funds or property held by it.

ARTICLE VI.

SECTION 1. The Trustee hereby accepts the trust created hereby, subject to the terms and conditions hereof and of said Lease, and hereby covenants and agrees, so far as reasonably possible, subject to the provisions of Sections 4, 5 and 7 of this Article VI, to perform, and to enforce the performance of, all and singular the terms, conditions and covenants of said Lease.

SECTION 2. The Trustee covenants and agrees to apply and distribute the rentals received by it under subdivisions (c), (d), (e), (f) and (g) of Article First of said Lease, when and as the same shall be received, for the following purposes, to wit:

(a) to the payment of the necessary and reasonable expense of the trust, including the proper com-

pensation of the Trustee and its counsel for its services and all expenses connected with the Trust Equipment and said Lease thereof;

(b) to the payment of any taxes, assessments and other governmental charges upon the Trust Equipment which it may by law be required to pay; and to the payment of any and all taxes, assessments and other governmental charges (other than Federal income taxes) which may by law be charged against the Trustee upon the Trust Certificates or the dividends payable thereunder, or which the Trustee may be required to retain or deduct therefrom or to pay thereon under any present or future law of the United States of America, or of any state, county, municipality or other lawful taxing authority therein;

(c) to the payment of the dividends payable on the Trust Certificates and of the dividend warrants appurtenant thereto when and as the same shall become payable;

(d) to the payment of the principal of the Trust Certificates when and as the same shall become payable according to the terms thereof or hereof; and

(e) to the payment of interest on any unpaid dividends, dividend warrants or principal at same rate per annum as provided in the dividend warrants.

SECTION 3. The Trustee, at all times until the payment of the principal of all the Trust Certificates, shall keep an office or agency in the City of Chicago and State of Illinois and an agency in the Borough of Manhattan in the City and State of New York, where the Trust Certificates and dividend warrants may be presented for payment.

SECTION 4. The Trustee assumes no liability for anything other than its own wilful default, misconduct or gross neglect, or that of its officers or directors. It shall be required to undertake no act or duty in the way of taking care of or taking possession of the Trust Equipment until fully secured against all liability and expenses.

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The Trustee shall not be liable for the delivery of any of the Trust Equipment, or for any defect therein or in the title thereto of the Trustee, nor shall anything herein be construed as a warranty 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. All representations and recitals contained in this Agreement and in said Lease are made by and on behalf of the Railroad 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 purports to have any knowledge with respect thereto, and the Trustee shall not be responsible in any way for the validity thereof, 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, nor shall it be responsible for the filing, refiling, recording or rerecording of this Agreement or of said Lease; and the Trustee may issue and deliver Trust Certificates in advance of such filing or recording.

The Trustee may exercise its powers and perform its duties hereunder and under said Lease by or through such attorneys, agents and servants as it shall appoint, and it shall be entitled to the advice of counsel (who may, in cases deemed by the Trustee, in its reasonable discretion, to be appropriate, be of counsel for the Railroad Company), and shall be protected by the advice of such counsel in anything reasonably done, or omitted to be done, by it in good faith in accordance with such advice. The Trustee shall not be liable or responsible for the neglect, default or misconduct of any attorney, agent or servant appointed and retained by it in the exercise of reasonable care, but nothing in this sentence contained shall limit any liability of the Trustee,

pursuant to the first sentence of this Section 4, for acts, neglects or wilful defaults of its officers or directors.

SECTION 5. The Trustee shall be under no obligation to take any action for the execution or enforcement of any of the trusts hereby created unless requested thereunto in writing by the bearers of not less than twenty per cent (20%) in principal amount of the then outstanding Trust Certificates, and upon being satisfactorily indemnified against expenses and liability with respect thereto, and also furnished with proof satisfactory to it as to the ownership of the Trust Certificates in respect of which any notice or request may be made; but neither any such request nor this provision therefor shall affect any discretion herein elsewhere specifically given to the Trustee to determine what action it shall take in respect of any such default, or to take action without request.

SECTION 6. No bearer of any Trust Certificate or dividend warrant issued hereunder (other than the bearer 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, after the aforesaid request in writing by the bearers of not less than twenty per cent (20%) in principal amount of the then outstanding Trust Certificates shall have been made upon the Trustee and ninety days' time elapsed for action by the Trustee upon such request, it shall decline to institute any proceedings pursuant thereto.

SECTION 7. The Trustee may, for all purposes, conclusively assume that the Railroad Company is not in default under the terms hereof until notified in writing to the contrary by the bearers of at least five per cent (5%) in principal amount of the Trust Certificates then outstanding, which notice shall distinctly specify the default desired to be brought to the attention of the Trustee.

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SECTION 8. The Trustee shall not incur any liability to anybody in acting upon any notice, consent, order, certificate, warrant, receipt, request or other paper or instrument reasonably believed by it to be genuine or authentic, and to be signed by the proper party or parties and reasonably believed by it to be sufficient.

SECTION 9. The Trustee, in so far as permited by law, will allow such interest upon all moneys received by it under the provisions of this Agreement or of said Lease as during that time is allowed by it upon deposits of a similar character.

SECTION 10. The Trustee may resign and be discharged from the trusts created by this Agreement by mailing to the Railroad Company notice in writing of such resignation, specifying a date when it is desired that such resignation shall take effect. Such notice shall be published at least once in each of three successive calendar weeks prior to the date specified in such notice, on any day or days of the week, in two daily newspapers printed in the English language, one published and of general circulation in the City of Chicago and State of Illinois and the other in the Borough of Manhattan in the City and State of New York. Such resignation shall take effect immediately upon, but not prior to, the appointment of, and acceptance of the trust by, such successor trustee as hereinafter provided, whether on, prior to, or subsequent to, the date stated in said notice of resignation.

Any trustee hereunder may be removed at any time by an instrument in writing filed with the Trustee and executed by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding.

SECTION 11. In case at any time the Trustee shall resign or shall be removed or otherwise shall become incapable

of acting, a successor may be appointed by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding by an instrument or concurrent instruments signed by such bearers or their attorneys in fact duly authorized; but until a new trustee shall be appointed by such bearers as herein authorized, the Railroad Company, by an instrument executed by the President or the Vice-President and Comptroller of the Railroad Company, or its duly authorized agent, shall appoint a trustee to fill such vacancy. If the Railroad Company shall fail, within thirty days after the receipt of notice that the Trustee has resigned, to appoint a trustee to fill such vacancy, and if a successor trustee shall not have been appointed by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee. Every such successor trustee, whether appointed by the bearers of the Trust Certificates or by the Railroad Company or by order of court, shall always be a trust company or bank having power so to act, shall be a member bank of the Federal Reserve System, or of such system of banks, if any, as may be established in lieu thereof, shall be organized under the laws of the United States of America, or the State of Illinois and having an office in the City of Chicago and State of Illinois, or the State of New York and having an office in the Borough of Manhattan in the City and State of New York, and shall have a capital and surplus aggregating at least Five Million Dollars. After any such appointment by the Railroad Company or by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding the Railroad Company shall cause notice of such appointment to be published once a week in each of four successive weeks in two daily newspapers printed in the English language, one published and

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ARTICLE VII.

In case of the death or inability to act of either of the Vendors, the other Vendor shall have and discharge all the powers of the Vendors. In case of the death or inability to act of both of the Vendors, the Trustee shall receive and distribute or pay for the account of the original Vendors, to the parties entitled to receive the same from the original Vendors, all Trust Certificates issuable or Deposited Cash or other moneys payable to the original Vendors by the Trustee hereunder. Any action taken by either of the Vendors shall have the same force and effect as if taken by both of them. The Vendors shall incur no liability hereunder, or under any bill of sale, guaranty or warranty executed by them as herein provided, for anything other than their own wilful default, misconduct or gross neglect. The Vendors shall be entitled to the advice of counsel (who may in appropriate cases be of counsel for the Railroad 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 VIII.

Any request or other instrument required by this Agreement to be signed or executed by bearers of Trust Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such bearers in person or by an agent or attorney appointed by an instrument in writing. Proof of the execution of any such request in writing 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 conclusively be deemed to be satisfactory to the Trustee), 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 Illinois, acknowledgments of deeds to be recorded 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;

(b) the amount of Trust Certificates held by any person executing any such request or other instrument as a Certificate holder, and 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, banker, banker 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.

ARTICLE IX.

At the termination of said Lease, any moneys, remaining in the hands of the Trustee, after paying the principal of and dividends upon the Trust Certificates, and the expenses of the Trustee, including its reasonable compensation, shall be paid to the Railroad Company.

of General circulation in the City of Chicago and State of Illinois, and the other in the Borough of Manhattan in the City and State of New York; but any new trustee so appointed by the Railroad Company or by a court of competent jurisdiction shall immediately, and without further act, be superseded by a trustee appointed, in the manner above provided, by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding, provided such appointment is made within a period of one year after the Trustee shall resign, be removed or become incapable of acting.

Any successor trustee appointed hereunder shall execute, acknowledge and deliver to the Railroad 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, power, 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 Railroad 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 Railroad Company.

Any corporation resulting from any merger or consolidation to which the Trustee, or any successor to it, shall be a party, shall be the 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, provided such corporation shall be a corporation having power to act, shall be a member bank of the Federal Reserve System, or of such system of banks, if any, as may be established in lieu thereof, shall be organized under the laws of the United States of America, or the State of Illinois and having an office in the City of Chicago and State of Illinois, or the State of New York and having an office in the Borough of Manhattan, in the City and State of New York, and shall have a capital and surplus aggregating at least Five Million Dollars.

Section 12. The Trustee shall be entitled to reasonable compensation for all services rendered by it and the Railroad Company agrees to pay from time to time, on demand of the Trustee, such compensation and to reimburse the Trustee for, and defend and save it harmless against, any and all loss, damage, liability, claims, demands, disbursements and expense, including reasonable counsel fees, which it may incur hereunder or under said Lease, and to secure the payment thereof the Trustee shall have a lien on the Trust Equipment and the proceeds thereof prior to the rights therein of the bearers of Trust Certificates.

The Trustee may become the owner of Trust Certificates and 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 money at any time paid out by it in conformity hereunder.

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ARTICLE X.

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 the bearers of the Trust Certificates and the bearers of the appurtenant dividend warrants, any right, remedy or claim, under or by reason of this Agreement, or of any term, covenant or condition thereof, and all of the terms, covenants, conditions, promises and agreements in this Agreement contained shall be for the sole and exclusive benefit of the parties hereto and their successors and of the bearers of the Trust Certificates and the bearers of the dividend warrants.

ARTICLE XI.

The term "Trustee" as used herein and in said Lease shall be held and construed to mean Continental Illinois National Bank and Trust Company of Chicago, its successors and assigns; and the term "Railroad Company" herein to mean Chicago, Milwaukee, St. Paul and Pacific Railroad Company, its successors and assigns. The term "Trust Equipment" whenever used herein or in said Lease, unless otherwise indicated by the context, is intended to include all railroad equipment at any time covered by said Lease or any supplemental lease or this Agreement or required or intended so to be. The terms "Trust Certificate" or "Trust Certificates", whenever used herein or in said Lease, includes, unless the context otherwise indicates, both temporary and definitive certificates. The term "State" whenever used herein or in said Lease shall include the District of Columbia.

Whenever, under the provisions hereof, it is necessary or proper for any notice or demand to be given to or made

upon the Railroad Company, or if at any time it is desired to give any such notice or make any such demand, such notice or demand may be given or made to the Railroad Company by depositing a written statement thereof, securely enclosed in a postpaid wrapper in the United States registered mail, directed to the Railroad Company at Union Station Building, Chicago 6, Illinois, and an affidavit by any person representing or acting on behalf of the Trustee as to such mailing, shall be conclusive evidence of the giving of such notice and the making of such demand.

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.

IN WITNESS WHEREOF the parties of the first part have hereunto set their hands and seals, and the parties of the second and third parts have caused their respective corporate names to be signed hereto by their respective officers thereunto duly authorized and their respective corporate seals to be hereto affixed, duly attested, as of the day and year first above written.

Paul Robb (L. S.)
PAUL B. ROBB

H. J. Groener (L. S.)
H. J. GROENER

Signed, sealed and delivered by Paul B. Robb and H. J. Groener in the presence of:

H. J. Wagner
H. J. WAGNER

H. H. Conley
H. H. CONLEY
Attesting Witnesses.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,
As Trustee,

By R. M. Kimball
R. M. KIMBALL *Vice-President.*

Attest:
V. P. Nelson
V. P. NELSON
Assistant Secretary.

Signed, sealed and delivered by Continental Illinois National Bank and Trust Company of Chicago in the presence of:

H. J. Wagner
H. J. WAGNER

H. H. Conley
H. H. CONLEY
Attesting Witnesses.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,

By J. W. Severs
J. W. SEVERS VICE *President.*

Attest:
T. W. Burtness
T. W. BURTNESS *Secretary.*

Signed, sealed and delivered by Chicago, Milwaukee, St. Paul and Pacific Railroad Company, in the presence of:

Ruth E. Hall
RUTH E. HALL

R. K. Merrill
R. K. MERRILL
Attesting Witnesses.

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

I, W. G. EVERIST, 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 12th day of April, 1948, 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 Paul B. Robb and H. J. Groener, to me personally known and known to me to be the individuals described in and the identical persons who subscribed their names to and who executed the within and foregoing instrument in writing in my presence as parties of the first part thereto and in the presence of the two witnesses whose names are thereunto subscribed as such, and said Paul B. Robb and H. J. Groener severally duly acknowledged to me in the presence of said witnesses that they signed, sealed, executed and delivered said instrument as their 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 Cook, State of Illinois, this the day and year in this my certificate first above written.

My commission as such Notary Public expires APRIL 9, 1952

W. G. Everist
W. G. EVERIST
Notary Public in and for the State of Illinois, County of Cook.

STATE OF ILLINOIS, }
COOK COUNTY. } ss.

I, MICHAEL J. ELYNN, County Clerk of the County of Cook, Do Hereby Certify that I am the keeper of the official records of Meyrose Public in said County, and as such officer am duly authorized by laws entitled to full faith and credit, that W. G. Everist 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 said 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 the State of Illinois, and to administer oaths; and 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 that the said 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 12 day of April A. D. 1948

Michael J. Elynn
County Clerk.

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 27th day of April, 1948, 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 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 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 acknowledge in the presence of said witnesses that said J.W.SEVERS resides in Evanston and that said T.W.BURTNESS resides in Oak Park in the State of Illinois, and that said J.W.SEVERS is 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 J.W.SEVERS,

VICE President, and T.W.BURTNESS, Secretary, know the corporate seal of said corporation; that the seal affixed to said instrument is the seal of said corporation; that it was so affixed thereto by authority of the Board of Directors of said corporation and that each of them signed their names to, and executed, the foregoing instrument in their respective capacities as VICE President and Secretary in behalf of said corporation; that they affixed said 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 considerations, 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 17, 1951

R. W. SPANGENBERG
Notary Public in and for the State of Illinois, County of Cook.

STATE OF WISCONSIN
Department of State) ss.

Received this 14th day of April, A.D., 1948, at 10:00 o'clock A.M., and recorded in Vol. 40 of Railroad Mortgages on pages 323-354, incl.

Assistant Secretary of State

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, W. G. EVERIST, 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 27th day of April, 1948, 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 R. M. KIMBALL and V. P. NELSON, to me personally known and known to me to be, respectively, a Vice-President and an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, 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 R. M. KIMBALL and V. P. NELSON, 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 R. M. KIMBALL resides in Evanston in the State of Illinois, and that said V. P. NELSON resides in Chicago in the State of Illinois; that said R. M. KIMBALL is a Vice-President, and said V. P. NELSON is an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, the corporation described in and which executed the within and foregoing instrument in writing; that they, said R. M. KIMBALL, Vice-

President, and V. P. NELSON, Assistant Secretary, know the corporate seal of said corporation; that the seal affixed to said instrument is the seal of said corporation and such corporate seal; that it was so affixed thereto by order and 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 Assistant Secretary in behalf of said corporation by like order and 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 considerations, 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 APRIL 9, 1952

W. G. EVERIST
Notary Public in and for the State of Illinois, County of Cook.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. } I, MICHAEL J. FLYNN, County Clerk of the County of Cook, in the State aforesaid, and the keeper of the records and seal thereof, 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 entitled to issue certificates of authority, that

those names in attached or foregoing certificate of proof of acknowledgment of a conveyance of lands, tenements or hereditaments, are the genuine signatures of the persons whose names they purport to be subscribed thereto, and that such persons were at the time of taking such proof or acknowledgment a Notary Public in and for said County, duly commissioned, sworn and qualified; and that I have compared the impression of the seal affixed to the certificate of such proof or acknowledgment with a specimen impression of the seal of such Notary Public filed in my office, and believe the same to be genuine; all of which appears from the records and files in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County of Cook, this 25th day of April A.D. 1948.

MICHAEL J. FLYNN
County Clerk.

WISCONSIN

Executed in 22
Counterparts
Counterpart No 4

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD EQUIPMENT TRUST,
SERIES DD

Lease of Railroad Equipment

DATED AS OF JUNE 1, 1948

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

TO

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

Agreement

DATED AS OF JUNE 1, 1948

PAUL B. ROBB and H. J. GROENER,
Vendors

WITH

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

AND

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

LEASE OF RAILROAD EQUIPMENT, dated as of June 1, 1948, between **CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO**, a corporation duly organized and existing under the laws of the United States of America, Trustee, as hereinafter mentioned (hereinafter called the Trustee), party of the first part, and **CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY**, a corporation duly organized and existing under the laws of the State of Wisconsin (hereinafter called the Railroad Company), party of the second part:

WHEREAS, by certain agreement, dated as of June 1, 1948, between Paul B. Robb and H. J. Groener, Vendors, Continental Illinois National Bank and Trust Company of Chicago, as Trustee, and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a counterpart original whereof is hereto annexed and made a part hereof, there was constituted "Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series DD," and 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 Railroad Company hereunder; and

WHEREAS, pursuant to the provisions of said Agreement, the railroad equipment hereinafter described 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:

That the Trustee, acting in pursuance of said Agreement, for and in consideration as well of the sum of One Dollar to it paid by the Railroad Company at or before the ensealing and delivery hereof, the receipt of which is hereby acknowledged, as of the rents and covenants hereinafter mentioned to be paid, kept and performed by the Railroad

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Company, has let and leased, and does hereby let and lease, to the Railroad Company all the railroad equipment of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series DD (which together with the additional and substituted equipment and replacements as herein and in said Agreement provided are hereinafter and in said Agreement collectively called the Trust Equipment), to wit:

PASSENGER TRAIN CARS

31 Coaches, all steel, Nos. 509 to 535, both inclusive, and 543 to 546, both inclusive.
6 Dining cars, all steel, Nos. 121 to 126, both inclusive.
2 Lunch-lounge cars, all steel, Nos. 172 and 173.
2 Diner-lounge cars, all steel, Nos. 170 and 171.
8 Parlor cars, all steel, numbered and named as follows:
190 Maple Valley
191 Wisconsin Valley
192 Gallatin Valley
193 Fox River Valley
194 Red River Valley
195 Pleasant Valley
196 Rock Valley
197 Spring Valley
4 Observation-parlor cars, all steel, numbered and named as follows:
186 Cedar Rapids
187 Coon Rapids
188 Dell Rapids
189 Priest Rapids
6 Cafe-parlor cars, all steel, numbered and named as follows:
180 Forest Grove
181 Morton Grove
182 Union Grove
183 Elm Grove
184 River Grove
185 Twin Grove

PASSENGER RAIL MOTOR CARS

2 1000 H.P. diesel-electric motor cars, all steel, Nos. 5900 and 5901.

COMPANY SERVICE EQUIPMENT

2 Business cars, all steel, named Milwaukee and Wisconsin.

FREIGHT TRAIN CARS

1,800 41'6", 50-ton, composite type gondola cars, Nos. 86150 to 87949, both inclusive,

together with such additional or substituted railroad equipment as may be acquired for said Trust and subjected to this Lease, as herein and in the Agreement provided.

The cost of all said equipment is estimated by the Railroad Company to be not less than $9,500,000.

In the event that the Vendors shall, as provided in Section 5 of Article I of the Agreement, acquire other new, standard gauge railroad rolling stock in substitution for, or in addition to, the original Trust Equipment above specifically described, such other new, standard gauge railroad rolling stock shall be included as part of the Trust Equipment and shall be subject to all terms and conditions of this Lease and of the Agreement in all respects as though it had been part of the original Trust Equipment herein described.

As and when the Trust Equipment shall from time to time be transferred and delivered to the Trustee under said Agreement, the same shall be delivered to the Railroad Company, and shall upon such delivery to the Railroad 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

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of the Trust Equipment leased by the Trustee to the Railroad Company hereunder, in all respects as if the same had been so delivered simultaneously with the execution and delivery hereof.

And the Railroad Company, in consideration of the premises, by these presents covenants and agrees with the Trustee as follows:

First. The cost of the Trust Equipment, whenever used herein or in said Agreement, shall mean the cost of the purchase or construction of the Trust Equipment and shall consist solely of items which may properly be included in such cost under the investment accounting rules of the Interstate Commerce Commission.

The Railroad Company hereby accepts (subject to the conditions mentioned in said Agreement) 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 the Railroad Company covenants and agrees to pay to the Trustee or its assigns (or in the case of taxes to the proper taxing authority) rent hereunder which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable:

(a) From time to time, at or before the delivery of any of the Trust Equipment to the Railroad Company as advance rental, amounts in cash equal to not less than twenty-five per cent (25%) of the cost of the Trust Equipment so delivered, as certified to the Trustee.

(b) If seventy-five per cent (75%) of the aggregate cost of all of the Trust Equipment which shall then and theretofore have been delivered hereunder shall exceed $7,120,000, an amount in cash as advance rental, which, with all other payments previously made

under the foregoing clause (a) and this clause (b), shall equal the difference between $7,120,000 and the aggregate cost of all Trust Equipment which then and theretofore shall have been delivered hereunder as aforesaid.

(c) The necessary and reasonable expenses of the trust, including the proper compensation of the Trustee and its counsel for their services and all expenses and liabilities connected with the Trust Equipment and this Lease thereof.

(d) Any and all taxes, assessments and other governmental charges upon the income or property of the trust, or said Agreement evidencing the same, which the Trustee by law may be required to pay, and any and all taxes, assessments and other governmental charges (other than Federal Income Taxes) which the Railroad Company or the Trustee may be required to pay or to retain from the principal of the Trust Certificates issued as provided in said Agreement (herein called the Trust Certificates) or from the dividends thereon, under any present or future law of the United States of America or any state, county, municipality or other lawful taxing authority therein.

(e) The dividend warrants attached to and the dividends payable on the Trust Certificates when and as the same shall become payable.

(f) The principal of the Trust Certificates when and as the same shall become 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, interest on such unpaid dividends, dividend warrants and principal at the same rate per annum as provided in the dividend warrants.

(h) If the Trustee shall invest funds of the Trust in United States Government securities, as provided in the Agreement, the amount, if any, by which the selling price of said securities including any accrued interest and premium plus any interest paid to the

Trustee on such securities is less than the purchase price thereof including any accrued interest and premium.

The Railroad Company shall not be required, however, to pay any tax, assessment or other governmental charge, so long as the Railroad 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 Trust Certificate holders may be materially endangered.

All rentals payable hereunder shall be payable at the principal office of the Trustee in the City of Chicago, State of Illinois, in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts.

Anything herein contained to the contrary notwithstanding, the Trustee shall, for all purposes of this Lease and said Agreement, accept as the cost of any of the Trust Equipment the respective amounts certified to it pursuant to, or in like manner as required by subdivision (b) of Section 4 of Article I of said Agreement. In case any certificate furnished pursuant to said subdivision (b) of said Section 4 or of this Lease shall state that the cost of the equipment therein referred to is tentatively determined subject to final adjustment, such certificate shall nevertheless be accepted and acted upon, pending adjustment.

Second. This Lease shall continue in force until the rent so paid hereunder shall furnish moneys sufficient to meet, discharge and cancel all the interests in said Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series DD, created in respect of the Trust Equipment, and the dividends thereon, as well as the other payments and charges aforesaid. At the termination of this Lease and

after all such payments required hereby shall have been completed and fully made to the Trustee, the Trust Equipment hereby leased, whether the same shall be delivered to the Railroad Company simultaneously with or after the execution hereof, shall at the option of the Railroad Company be assigned and transferred by the Trustee to the Railroad Company or its nominee or nominees and shall thereupon be and become the absolute property of the Railroad 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 Railroad Company but title to and ownership of all the Trust Equipment shall be reserved to and remain in the Trustee, notwithstanding the delivery of the Trust Equipment to, and the possession and use thereof by, the Railroad Company.

Third. Upon the written request of the Railroad Company, signed by the President or the Vice-President and Comptroller of the Railroad Company, stating that the use of any of the Trust Equipment, by reason of its character or the business of the Railroad Company, is no longer profitable to, or required by the Railroad Company, the Trustee may, in its sole discretion, while the Railroad Company is not in default hereunder, execute and deliver a bill of sale assigning and transferring to a purchaser or purchasers found by the Railroad Company the absolute title to such of the Trust Equipment; provided, however, that none of the Trust Equipment shall be so assigned or transferred unless simultaneously with the delivery of such bill of sale the Trustee shall receive from such purchaser or purchasers the agreed purchase price thereof and from the Railroad Company a sum in cash equal to the amount, if any, by

which the cost determined as herein provided of the Trust Equipment so assigned and transferred, less depreciation, exceeds said purchase price. For all purposes of this lease and said Agreement, depreciation on the Trust Equipment, or any thereof, shall not exceed an amount equal to ⅓ of 1 per cent of the cost thereof, determined as herein provided, for each calendar month between the date of delivery of such Trust Equipment to the agent of the Trustee and the date as of which depreciation is to be determined. Simultaneously with the delivery of such written request of the Railroad Company there shall also be delivered to the Trustee a certificate of the President or the Vice-President and Comptroller of the Railroad Company, stating the amount of such agreed purchase price of the Trust Equipment to be assigned and transferred and the amount of such depreciation (not in excess of the amount above stated) accrued upon such Trust Equipment. The sums so paid to the Trustee shall be held by it in trust for the equal and proportionate benefit of the bearers of the Trust Certificates and dividend warrants, until paid out by the Trustee upon like written request of the Railroad Company for the purchase by the Trustee of new standard gauge railroad rolling stock, free from liens, except the liens, if any, of the First Mortgage and/or of the General Mortgage of the Lessee on such right, title and interest as the Railroad Company may have in or to such rolling stock and which shall be in all respects subordinate to the right, title and interest of the Trustee therein and thereto, and upon the delivery of such new equipment to the Trustee accompanied by a bill or bills of sale, warranty or warranties, an opinion of counsel and a certificate as to delivery and cost in like manner as is provided in Section 4 of Article I of said Agreement. Any new equipment so acquired and substituted shall be marked in accordance with the provisions of Article Fourth hereof and immediately upon being so marked shall be part of the Trust Equipment subject to all of the terms and conditions hereof and of said Agreement in all respects as though it had been part of the original Trust Equipment herein described, and the Railroad Company and the Trustee shall execute, and the Railroad Company shall file and/or record as required by law, a supplemental lease thereof, describing the same, upon and subject to all terms and conditions hereof. The term "Trust Equipment," wherever used herein, unless otherwise indicated by the context, is intended to include any new equipment so acquired or otherwise subjected to this Lease or required or intended so to be.

Fourth. At or before delivery to the Railroad Company of the Trust Equipment, there shall be plainly, distinctly, permanently and conspicuously placed and fastened upon each side of each unit of the Trust Equipment a metal plate bearing the following words, with appropriate changes thereof or additions thereto as from time to time may be required by law in order to protect the interest of the Trustee, or such words shall be otherwise plainly, distinctly, permanently and conspicuously marked on each side of each thereof, in either case in letters not less than one-half inch in size:

> "Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series DD, Continental Illinois National Bank and Trust Company of Chicago, Trustee, Owner and Lessor."

Such plate or marks shall be such as to be readily visible and as to indicate plainly the Trustee's ownership of said 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 Railroad Company will immedi-

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ately cause the same to be restored or replaced. The Railroad Company will not change, or permit to be changed, the numbers upon equipment covered by this Lease (nor any numbers which may be substituted as herein provided), except in accordance with a statement of new numbers to be substituted therefor, which shall previously have been filed with the Trustee by the Railroad Company. In any such case, if the same be feasible, or necessary, the Railroad Company will at its expense cause to be made such notation on or addition to the record of this Lease as may be proper to preserve or protect the record title of the Trustee to such equipment.

The Trust Equipment may be lettered, "Chicago, Milwaukee, St. Paul and Pacific Railroad," "St. Paul," "Milwaukee," "C. M. St. P. & P. R. R.," or in some other appropriate manner, for convenience of identification of the leasehold interest of the Railroad Company, its successor or successors therein, but the Railroad 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 Railroad Company or by any person, association or corporation, other than the Trustee.

Fifth. (a) The Railroad Company, during the continuance of this Lease, will maintain and keep, at its own cost and expense, all of the Trust Equipment in good order and repair (the damage to be made good including, without limitation, damage by collision, fire or explosion), and will replace, at its own cost, any of the Trust Equipment that may be worn out, lost, destroyed or rendered unfit for use, by new standard gauge railroad rolling stock of substantially as good material, construction and of equal value,

the value of the new rolling stock to be figured at cost, determined as provided in Article First hereof, if that be below market value, or at market value if that be below such cost. For the purpose of this Article Fifth the value of such replaced equipment shall be taken to be the cost thereof, determined as provided in Article First hereof, less depreciation accrued thereon, computed as provided in Article Third hereof. The title to all rolling stock procured or constructed for such replacement shall be taken in the name of or transferred to the Trustee, free from liens, or free from liens except the liens, if any, of the First Mortgage and of the General Mortgage of the Railroad Company which liens, pursuant to the provisions in said mortgages contained, shall have been subordinated as to such rolling stock to secure or confirm the prior right, charge, lien or title of the Trustee in this Lease and in the Agreement hereto annexed to such rolling stock, and such rolling stock shall be marked in accordance with the provisions of Article Fourth hereof. At the time of every such replacement the Railroad Company shall deliver to the Trustee a certificate of the President or the Vice-President and Comptroller or an Assistant Comptroller of the Railroad Company, stating the value of the Trust Equipment so worn out, lost, destroyed or rendered unfit for use, determined as herein provided, and the cost and the reasonable market value of the equipment with which it is replaced, together with a bill or bills of sale, warranty or warranties, an opinion of counsel and a certificate as to delivery, in like manner as is provided in Section 4 of Article I of said Agreement.

Thereupon, such new equipment shall be deemed a part of the Trust Equipment, subject to all the terms and conditions hereof and of said Agreement, as though it had been

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originally a part of the Trust Equipment; but the Trustee and the Railroad Company shall execute a supplemental lease thereof, describing the same, upon and subject to all of the terms and conditions hereof.

(b) The Railroad Company will during the continuance of this Lease keep all of the Trust Equipment insured against loss or damage by fire, and against other loss or damage the risk of which is customarily insured against by railroad companies, in such manner and to such proportion of the value thereof as is customarily insured by railroad companies. All of such insurance shall be payable to the Trustee as Trustee, Owner and Lessor and shall be in an insurance company or companies satisfactory to the Trustee. All the insurance premium or premiums shall and will be paid by the Railroad Company, and, in default of the the Railroad Company keeping such Trust Equipment so insured, the Trustee without impairment of its rights and remedies by reason of such default may make appropriate insurance from time to time and pay the premium or premiums therefor but it shall not be required so to do, and in such event the Railroad Company shall and will pay to the Trustee the amount of the premium or premiums so paid, with interest at the rate of 6 per cent per annum from the time of payment. In case the Railroad Company fails to make and maintain such insurance and the Trustee insures the Trust Equipment or any part thereof as above provided, the title to the Trust Equipment shall, notwithstanding the making of all other payments hereunder or under said Agreement to be made by the Railroad Company, remain in the Trustee until the repayment of the amount so paid for insurance with interest from the time of payment, and the repayment of such amount is hereby expressly made one of the obligations to be performed before

title to the Trust Equipment shall vest in the Railroad Company.

Any insurance moneys paid to the Trustee on account of any loss in respect of the Trust Equipment covered by insurance shall be held and retained by the Trustee in trust for the equal and proportionate benefit of the holders of the Trust Certificates and dividend warrants attached thereto, until the replacement or repair, as provided in subdivision (a) of this Article, of the Trust Equipment covered by such insurance. Upon proof satisfactory to the Trustee of the proper replacement or repair of said Trust Equipment, said insurance moneys received by the Trustee shall be applied by the Trustee to the payment of the cost of such replacement or repair or to reimburse the Railroad Company, to the extent of such funds, for payments made by it in respect of such replacement or repair. A certificate in behalf of the Railroad Company by its President or Vice-President and Comptroller or Assistant Comptroller as to the proper replacement or repair of said Trust Equipment, free from lien as aforesaid, shall be full and complete protection to the Trustee.

(c) The Railroad Company covenants and agrees to furnish to the Trustee, whenever required by the Trustee, and at least once in every year during the continuance of this Lease, an accurate statement, signed by the President, or the Vice-President and Comptroller of the Railroad Company, of the amount, description and numbers of the Trust Equipment then covered hereby, and the amount, description and numbers of all that may have been worn out, lost, destroyed or rendered unfit for use by accident or otherwise, and the number of units of Trust Equipment repaired during the previous year, and the number of units then undergoing repairs and in the shops

for repairs, and the repairs needed on any of the Trust Equipment, specifying the Trust Equipment so in need of repair, classifying the repairs so needed according to a standard classification of repairs, in so far as practicable. Together with said statement the Railroad Company shall also furnish to the Trustee a statement signed by its Superintendent Car Department or an Assistant Superintendent Car Department, stating that in the case of all of the Trust Equipment repainted during the preceding year, the marks required by Article Fourth hereof have been preserved, or that the same when repainted has been again marked as required by said Article. The Trustee shall have the right, by its agents, (but shall not be obligated) to inspect the Trust Equipment once in every year during the continuance of this Lease.

(d) The Railroad Company covenants and agrees to indemnify and protect the Trustee in the use of any and all patented inventions employed in and about the Trust Equipment and to comply in all respects with the laws of the United States and of all the states in which the Trust Equipment or any thereof may be operated and with all lawful acts, rules, regulations and orders of the Interstate Commerce Commission and of all other commissions, boards and other legislative, executive or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including, but without limitation, all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; provided, however, that the Railroad Company may in good faith contest the validity of any such act, rule, regulation or order or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will

not, in the judgment of the Trustee, materially endanger the rights or interests of the Trustee or of the bearers of the Trust Certificates.

Sixth. The Railroad Company, so long as it shall not be in default under this Lease, shall be entitled to the possession of the Trust Equipment and the use thereof upon the lines of railroad owned by it or operated by it under lease or otherwise, or over which it has trackage rights, and upon those of any railroad company a majority of whose capital stock is at the time owned or controlled by the Railroad Company, and also upon connecting and other railroads in the usual interchange of traffic, from and after delivery of the Trust Equipment by the Trustee to the Railroad Company, but only upon and subject to all the terms and conditions of this Lease.

The Railroad Company will not either assign or transfer this Lease, or transfer or sublet the Trust Equipment or any part thereof, without the written consent of the Trustee first had and obtained; and the Railroad Company shall not, without such written consent, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment.

Seventh. In case the Railroad Company

(1) Shall make default in the payment of any part of said rent and such default shall continue for more than thirty (30) days after the same shall become due and payable, or

(2) shall make or suffer any unauthorized assignment or transfer of its rights or interest in, or any unauthorized sublease of, or, except as herein author-

ized, part with the possession of, the Trust Equipment, or any thereof, and shall fail or refuse either to cause such assignment or tranfer or sublease to be canceled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within thirty days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said thirty days to deposit with the Trustee a sum in cash equal to the actual cost of the Trust Equipment so assigned or transferred or subleased, or the possession of which shall have been so parted with, as certified to the Trustee pursuant to Section 4 of Article I of said Agreement, (any sum so deposited to be returned to the Railroad Company upon the cancellation of such assignment, transfer or sublease, and the recovery of possession by the Railroad Company of such Trust Equipment in good condition, subject to ordinary usage as certified to the Trustee by the President or the Vice-President and Comptroller or the Assistant Comptroller of the Railroad Company, or

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

then, in any such case (herein and in said Agreement sometimes called events of default) the Trustee may, and upon the request in writing of the bearers of not less than 20 per cent in principal amount of the Trust Certificates at the time outstanding shall, declare this Lease terminated. The election of the Trustee to terminate this Lease under this clause shall have the same effect as the retaking of the Trust Equipment by the Trustee as hereinafter provided. Upon the happening of an event of default, the Trustee may also, by its agents, enter upon the railroads and premises of the Railroad Company and take possession of all or any part of the Trust Equipment, and withdraw the

same from said railroads and premises, retaining all payments which up to that time may have been made on account of rental for the Trust Equipment and otherwise and shall be entitled to collect, receive and retain all unpaid per diem, mileage or other charges of any kind earned by the Trust Equipment or any thereof, and may lease the Trust Equipment or any part thereof, or sell the same or any part thereof, so far as it may deem necessary or desirable to perform and fulfill the trusts under said Agreement, at public sale, for cash or upon credit, in its discretion, and otherwise proceed to enforce its rights and the rights of the owners of interests under said Agreement and under this Lease in the manner therein and herein provided; and upon such taking possession or withdrawal or lease or sale of the Trust Equipment, the Railroad Company shall cease to have any rights or remedies in respect of the Trust Equipment under this Lease, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Railroad Company; and no payments theretofore made by the Railroad Company for the rent or use of the Trust Equipment, or any of it, shall, in case of the happening of any such event of default and such taking possession, withdrawal, lease or sale by the Trustee, give to the Railroad Company any legal or equitable interest or title in or to the Trust Equipment, or any of it, or any cause or right of action, at law or in equity, in respect of the Trust Equipment against the Trustee or the owner of interests in said Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series DD; and such taking possession or withdrawal or lease or sale of the Trust Equipment by the Trustee shall not be a bar to the recovery by the Trustee from the Railroad Company of rentals then or thereafter due and payable, and the

Railroad Company shall be and remain liable for the same, until such sum shall have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient for the discharge and payment in full of all the various items mentioned in subdivision (a), (b), (c), (d), (e), (f), (g) and (h) of Article First hereof, whether they shall have then matured or not.

In case the Trustee shall rightfully demand possession of the Trust Equipment in pursuance of this Lease, and shall reasonably designate a point or points upon the railroad of the Railroad Company, or upon the railroad of any company a majority of whose capital stock is at the time directly or indirectly owned by the Railroad Company, for the delivery of the Trust Equipment to it, the Railroad 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 railroads 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 Railroad Company until the Trustee shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad 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 of equity having jurisdiction in the premises the Trustee shall be entitled to a decree against the Railroad Company requiring the specific performance thereof.

The remedies in this Lease and in said Agreement provided in favor of the Trustee and the holders of Trust Certificates, or any of them, shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity, and may be exercised from time to time and as often and in such order as may be deemed expedient by the Trustee. No delay or omission of the Trustee in the exercise of any right or power accruing upon any event of default shall impair any such right or power or shall be construed to be a waiver of such event of default or an acquiescence therein.

If the Trustee shall exercise any of the powers or remedies conferred upon it hereunder, the Railroad Company shall have the right, after all rentals and other sums due hereunder to the Trustee shall have been received by the Trustee, to require title to such of the Trust Equipment as shall not previously have been sold, assigned, transferred or otherwise disposed of by the Trustee to others to be transferred and assigned by the Trustee to the Railroad Company free from any further liabilities or obligations to the Trustee hereunder. If after applying all sums of money received by the Trustee in the exercise of such powers or remedies there shall remain any amount due to the Trustee under the provisions of this Lease, the Railroad Company hereby agrees to pay to the Trustee the amount of such deficiency. If after applying as aforesaid all sums so received by the Trustee there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to the Railroad Company.

Eighth. The Railroad Company covenants that prior to the delivery to it of any of the Trust Equipment covered thereby it will cause this Lease and said Agreement, and thereafter from time to time any and all sup-

plemental leases and agreements which may be executed pursuant to the terms hereof and of said Agreement, to be duly filed, registered or recorded and duly refiled, reregistered and rerecorded in each and every jurisdiction required by law, in order to publish notice of and to protect the Trustee's title to the Trust Equipment and any additions or replacements, and from time to time will perform any other act required by law, and will execute any and all further instruments that reasonably shall be requested by the Trustee for such publication and protection of such title.

Ninth. Until it shall have discharged all its obligations under this Lease, the Railroad Company shall pay all costs, charges and expenses incident to the performance of all terms and conditions of this Lease and said 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 said Agreement and of any instrument of further assurance, and all stamp taxes and other taxes, duties, imposts, assessments, charges, fines and penalties of any kind imposed upon this Lease, said Agreement 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.

Tenth. This Lease 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.

Eleventh. This Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the Trustee, acting in accordance with the terms and conditions of said Agreement, and the Railroad Company have caused these presents to be duly executed, as of the day and year first above written.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,

By ..... R. M. KIMBALL *Vice-President.*

Attest: .....
E. J. FRIEDRICH *Assistant Secretary.*

Signed, sealed and delivered by Continental Illinois National Bank and Trust Company of Chicago in the presence of:

..... H. W. CONLEY

..... H. J. WAGNER
Attesting Witnesses.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,

By .....
J. W. SEVERS *Vice President.*

Attest: .....
T. W. BURTNESS *Secretary.*

Signed, sealed and delivered by Chicago, Milwaukee St. Paul and Pacific Railroad Company in the presence of:

JOHN J. ROCHE .....

J. P. HYNES .....
Attesting Witnesses.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK.

I, W. G. EVERIST, 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 June, 1948, 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 R. M. KIMBALL and E. J. FRIEDRICH, each to me personally known and known to me to be, respectively, a Vice-President and an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, 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 thereunto subscribed as such, and said R. M. KIMBALL and E. J. FRIEDRICH, 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 R. M. KIMBALL resides in Evanston, in the State of Illinois, and that said E. J. FRIEDRICH resides in Elmhurst, in the State of Illinois, that said R. M. KIMBALL is a Vice-President and said E. J. FRIEDRICH is an Assistant Secretary of Continental Illinois National Bank and Trust Company of

Chicago, the corporation described in and which executed the within and foregoing instrument in writing; that they, said R. M. KIMBALL, Vice-President and E. J. FRIEDRICH, 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 order and 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 Assistant Secretary in behalf of said corporation by like order and 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 APRIL 9, 1952

.....
W. G. EVERIST
Notary Public in and for the State of Illinois, County of Cook.

Form 11A

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 W. G. Everist 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 said County, duly commissioned, sworn and qualified as such, as such was 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 16th day of June 1948.

Michael J. Flynn
County Clerk.

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

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 this 14 day of June, 1948, 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, each to me personally known and known to me to be, respectively, 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 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 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 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 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 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 17, 1951.

R. W. Spangenberg
R. W. SPANGENBERG
Notary Public in and for the State of Illinois, County of Cook.

Form 11A

STATE OF ILLINOIS, }
COUNTY OF COOK. } 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 anglicanry, that R. W. Spangenberg 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 by law 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 16th day of June A.D. 1948.

Michael J. Flynn
County Clerk.

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THIS AGREEMENT, dated as of June 1, 1948, by and between PAUL B. ROBB and H. J. GROENER (hereinafter called the Vendors), of the first part, CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO (hereinafter called the Trustee), as Trustee, of the second part, and CHICAGO, MILWAUKEE, ST. PAUL and PACIFIC RAILROAD COMPANY (hereinafter called the Railroad Company), of the third part, WITNESSETH as follows:

WHEREAS, the Vendors have acquired or will acquire from the Railroad Company the railroad equipment (which together with the additional or substituted equipment and replacements as in the Lease and this Agreement provided are hereinafter called the Trust Equipment) specifically described in the Lease of Railroad Equipment from the Trustee to the Railroad Company prefixed to this Agreement, to which Lease reference is hereby made; and

WHEREAS, subscriptions have been or are being secured, in an amount not exceeding $7,120,000 to a fund to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series DD, which said fund is to be deposited with the Trustee and applied by the Vendors or upon their written order in part payment on account of the cost of the Trust Equipment; and

WHEREAS, the Vendors desire to secure to the subscriber or subscribers to said fund, or their assigns, the payment of the amount thereof in twenty semiannual installments of $356,000 each, payable respectively on June first and December first, in each year, beginning on December 1, 1948, and ending on June 1, 1958, as hereinafter more particularly provided, with dividends to said dates of maturity respectively as hereinafter provided; 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 Railroad Company is desirous of securing the use of the Trust Equipment upon and in connection with the properties of the Railroad Company; and

WHEREAS, the Railroad Company represents that all things necessary to make the guaranty of the Railroad Company as endorsed upon the Trust Certificates, when said Certificates shall be issued by the Trustee under this Agreement, the binding, valid and legal obligation of the Railroad Company, as herein provided, and to make this Agreement and said 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 I.

SECTION 1. 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 of the Trust Certificates hereinafter described, the Trust Equipment described or referred to in said Lease prefixed hereto when and as the Trust Equipment or any part thereof is constructed or completed or otherwise acquired. The Vendors will deliver, or cause to be delivered, the Trust Equipment or any part thereof when and as constructed or completed to the person or persons designated by the Trustee as its agent or agents to receive such delivery, who may be

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any one or more of the officers or agents of the Railroad Company, and the certificate of any and every agent so designated shall be conclusive evidence of such delivery. The Trustee and the Railroad Company, simultaneously with the execution of this Agreement, have executed and delivered said Lease of all the Trust Equipment.

SECTION 2. The Trustee shall at any time, or from time to time, upon written request of the Vendors, without waiting for the recording, registration or filing of this agreement, or of any lease of or other instrument respecting the equipment subjected to this Agreement, execute and deliver to the subscriber or subscribers to said fund, as specified in such request, certificates to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust Certificates, Series DD, herein called the Trust Certificates, upon the deposit in cash with the Trustee of a sum equal to the principal amount and accrued dividends to date of delivery of the Trust Certificates the execution and delivery of which shall be so requested and not less than the net proceeds of the sale of said Trust Certificates.

Any interest allowed by the Trustee or earned upon any money so deposited shall be added to said fund and become a part of the Deposited Cash to be disposed of as hereinafter provided. All moneys paid to the Trustee as accrued dividends upon the original issuance and delivery of any Trust Certificates shall be held by the Trustee until the next ensuing dividend payment date, and thereupon shall be applied by the Trustee to the payment of any dividends then due, as if such moneys were paid to the Trustee by the Railroad Company as rent pursuant to Article First of said Lease for application as in subparagraph (e) thereof provided.

SECTION 3. The term Deposited Cash, whenever used

herein, shall mean and include (a) the cash deposited with or to the credit of the Trustee constituting said fund, or a part thereof, as in Section 2 of this Article I provided (including any interest allowed or earned thereon, but excluding any accrued dividends paid upon the original issuance of Trust Certificates), and (b) all installments of rental paid pursuant to subdivisions (a) (b) of Article First of said Lease. The Deposited Cash shall, until paid out by the Trustee as herein provided, be held in trust for the benefit of the bearers of the Trust Certificates. Thereafter, from time to time, when and as any of the Trust Equipment shall have been delivered to the Trustee, the Trustee shall pay to the Vendors, or upon their order, out of the Deposited Cash, an amount equal to the cost of the equipment so delivered to the Trustee, such cost to be conclusively established (subject to the provisions of Section 4 of this Article I) by the certificate in writing of the Railroad Company by its duly designated representative, delivered to the Trustee prior to or contemporaneously with such payment.

SECTION 4. The Trustee shall not pay out any Deposited Cash as provided by Section 3 of this Article I against the delivery of any of the Trust Equipment unless and until it shall have received:

(a) a certificate of the agent or agents designated by the Trustee to receive delivery of the Trust Equipment, stating that Trust Equipment specified by numbers in such certificate has been delivered to such agent or agents and stating that the Trust Equipment specified by numbers in such certificate has been marked in accordance with the provisions of Article Fourth of said Lease;

(b) a certificate of the Railroad Company, signed by the President or the Vice-President and Comptroller or an Assistant Comptroller of the Railroad Company, certifying that the cost of such Trust Equipment, determined as provided in said Lease, is the amount therein specified;

(c) a bill or bills of sale of such Trust Equipment from the Railroad Company to the Trustee or from the Railroad Company to the Vendors and from the Vendors to the Trustee, such bill of sale by the Railroad Company to contain or be accompanied by a warranty or guaranty of the Railroad Company that the title to the Trust Equipment described in such bill of sale is free from any liens or encumbrances or that it is free from any lien or encumbrance except the liens, if any, of the First Mortgage and of the General Mortgage of the Railroad Company, and that pursuant to the provisions in said mortgages contained, they have been subordinated as to such Trust Equipment to secure or confirm the prior right, charge, lien or title of the Trustee in this Agreement and in the Lease hereto prefixed to such equipment; and

(d) an opinion of counsel satisfactory to the Trustee that such bill or bills of sale and deliveries are valid and effective, either alone or in connection with any other instrument executed or made in connection therewith, to vest in the Trustee, free from all liens and encumbrances, the title so transferred to the Trustee or that it is free from any lien or encumbrance except the liens, if any, of the First Mortgage and of the General Mortgage of the Railroad Company, and that the liens of each of the mortgages of the Railroad Company, pursuant to the provisions in said mortgages contained, have been subordinated by the respective instruments of subordination delivered to the Trustee, as to such Trust Equipment to secure or confirm the prior right, charge, lien or title of the Trustee in this Agreement and in the Lease hereto prefixed to such equipment.

Any such certificate or certificates as to cost may state that the cost of the Trust Equipment therein referred to is tentatively determined, subject to final adjustment, and in that case, adjustments may be made by certificates thereafter filed. A final certificate, signed as provided in paragraph (b) above, as to the cost of all the Trust Equipment shall be delivered to the Trustee by the Vendors not later than June 1, 1949.

SECTION 5. In the event that, owing to the imposition of restrictions by the United States Government, or any governmental bureau, commission, or agency having authority in the premises, the Vendors shall be unable to acquire any and all of the Trust Equipment specifically described in the Lease, the Vendors may cause to be built or acquired, if available, and in such event shall sell, assign, transfer, and set over, or cause to be sold, assigned, transferred, and set over unto the Trustee, subject to the provisions of the foregoing Section 4 of this Article I, other new, standard gauge railroad equipment, of such classes or types, and of such material and construction, as may be approved by the Railroad Company; provided, however, that the Trustee shall not acquire work equipment, except in substitution for work equipment described in the Lease.

In the event that the aggregate cost of the Trust Equipment specifically described in the Lease, and of any equipment that may be substituted therefor in accordance with the provisions of the foregoing paragraph, acquired by the Trustee hereunder, shall not amount to at least $9,500,000, then the Vendors shall cause to be built or acquired, if available, and, in such event, shall sell, assign, transfer and set over, or cause to be sold, assigned, transferred and set over unto the Trustee, subject to the provisions of the

foregoing Section 4 of this Article I, other new, standard gauge railroad equipment, other than work equipment, of such classes or types, and of such material and construction, as may be approved by the Railroad Company, and of such cost that the aggregate cost of all the Trust Equipment will be at least $9,500,000.

In case any substituted or additional equipment shall be acquired and transferred to the Trustee in accordance with either of the preceding two paragraphs, the Trustee shall execute to the Railroad Company a supplemental lease of such substituted or additional equipment, describing the same, upon and subject to the terms and conditions hereof and of the Lease, and such substituted or additional equipment shall be part of the Trust Equipment, subject to all the terms and conditions of this Agreement and the Lease in all respects as though it had been part of the original Trust Equipment specifically described in the Lease.

SECTION 6. The Trustee shall, on request of the Railroad Company, invest and keep invested all, or such part of the Deposited Cash not needed by it to pay for Trust Equipment delivered or about to be delivered, as may be designated by the Railroad Company, in such United States Government securities as it may designate. The Trustee, with or without the request of the Railroad Company, may from time to time sell, at the prevailing market prices, such amount of such securities as it may deem necessary to provide cash to pay for Trust Equipment delivered, or about to be delivered, and may, with or without such request, at any time or from time to time, sell at such prices, all or part of such securities, if by reason of a declining market therefor, it believes there is danger of the securities going below par. The Trustee shall sell any such United States Government securities, held by it, when

directed by the Railroad Company. The Railroad Company covenants and agrees that, if the selling price of said securities including any accrued interest and premium, plus any interest paid to the Trustee on such securities, is less than the purchase price thereof, including any accrued interest and premium, the Railroad Company shall forthwith pay to the Trustee the amount of such deficiency as rental, as provided in Paragraph First of the Lease. All interest received by the Trustee on such securities, and all proceeds of the sale thereof, including premium and accrued interest, if any, shall constitute part of Deposited Cash.

SECTION 7. Anything in this Article 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 principal sum of $7,120,000 at any one time outstanding (subject, however, to the provisions of Section 6 of Article II of this Agreement).

SECTION 8. Any moneys held by the Trustee after delivery of and payment for all of the Trust Equipment, the disposition of which is not herein or in said Lease otherwise provided for, shall be credited against the next installment of rental payable under Section (f) of Article First of said Lease.

ARTICLE II.

SECTION 1. Each of the definitive Trust Certificates shall represent an interest in the amount of One Thousand Dollars ($1,000) in the trust of the Trust Equipment hereby created, and the bearer of any trust certificate, whether definitive or temporary, shall be entitled to receive dividends on said amount at the rate of 2 per cent per annum from June 1, 1948, payable semiannually on the

first day of June and December in each year. $356,000 principal amount of the Trust Certificates shall become due and payable on June 1 and December 1 in each year beginning on December 1, 1948, and ending on June 1, 1958. Each of said Trust Certificates shall have endorsed thereon the guaranty of the Railroad Company in the form hereinafter set forth.

The due date of each Trust Certificate shall appear on its face. The definitive Trust Certificates shall be numbered from 1 consecutively upward to 7,120, both inclusive.

Dividend warrants evidencing the right of the holders of the Trust Certificates to the dividends thereon shall be annexed to the respective definitive Trust Certificates. All dividends on the respective Trust Certificates shall cease after the principal thereof shall have become due.

Trust Certificates if temporary may be printed and if definitive shall be lithographed, lithographically printed or engraved.

SECTION 2. The definitive Trust Certificates, the dividend warrants to be annexed thereto and the guaranty to be endorsed thereon by the Railroad Company as hereinafter in Article III provided shall be in substantially the following forms:

(Form of Trust Certificate.)

No..... $1,000

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD EQUIPMENT TRUST.

Series DD

Total Issue not to exceed $7,120,000.

Dividends at the rate of 2 Per Cent per Annum.

Payable June 1 and December 1.

Continental Illinois National Bank and Trust Company of Chicago, Trustee.

Principal Hereof Due .....1, 19.....

Continental Illinois National Bank and Trust Company of Chicago, as Trustee under an agreement dated as of June 1, 1948 (hereinafter referred to as the "Agreement"), between Paul B. Robb and H. J. Groener, of the first part, Continental Illinois National Bank and Trust Company of Chicago, Trustee (hereinafter referred to as the "Trustee"), of the second part, Chicago, Milwaukee, St. Paul and Pacific Railroad Company (hereinafter referred to as the "Railroad Company"), of the third part, hereby certifies that the bearer hereof is entitled to an interest of One Thousand Dollars in Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series DD, payable on..... 1, 19....., unless prior payment hereof be required as hereinafter provided, and to dividends thereon at the rate of two per cent (2%) per annum from June 1, 1948, to said date of maturity, payable semiannually on June first and December first 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 City of Chicago and State of Illinois, or at the agency of the Trustee in the Borough of Manhattan, in the City and State of New York, in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts, all without deduction for any tax, assessment or other governmental charge (other than Federal income taxes) which the Railroad Company or the Trustee may be required to pay, or to retain therefrom, under any present or future law of the United States of America, or of any state, county, municipality or other lawful taxing authority therein, but only from and out of rentals or other moneys received by the Trustee from a certain Lease of Railroad Equipment made by Continental Illinois National Bank and

Trust Company of Chicago, Trustee, to the Railroad Company, dated as of June 1, 1948.

This certificate is one of an issue of certificates, in bearer form, in an aggregate principal amount not exceeding $7,120,000, substantially identical except as to dates of maturity, all issued or to be issued under said Agreement. The terms of the Agreement further provide that said railroad equipment (or deposited cash and United States Government securities in lieu thereof as provided in said Agreement) and said Lease thereof are to be held by the Trustee in trust for the benefit of the bearers of said certificates. Reference is hereby made to said Agreement and Lease, filed with the Trustee at its office in the City of Chicago, for a further statement of the rights of the bearers of said certificates thereunder.

This certificate and the attached dividend warrants are issued subject to the condition, and every holder of this certificate or of any such dividend warrants, by accepting the same, agrees with every subsequent holder hereof and with the Trustee and the Railroad Company, that delivery of this certificate or any such dividend warrant by any 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 a negotiable instrument payable to bearer and the Trustee and the Railroad Company shall be entitled to treat the bearer hereof or the bearer of 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 the Railroad 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.

In witness whereof, the Trustee has caused this certificate to be signed by one of its Vice-Presidents, and its corporate seal to be hereunto affixed and to be

attested by its Secretary or an Assistant Secretary, and dividend warrants bearing the facimile signature of one of its Assistant Secretaries to be attached hereto, as of the first day of June, 1948.

Continental Illinois National Bank and Trust Company of Chicago,
As Trustee,

By.....
Vice-President.

Attest:

.....
Assistant Secretary.

(Form of Dividend Warrant.)

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

Due to the bearer hereof on the first day of....., 19....., on surrender hereof at the office or agency of the undersigned Trustee in the City of Chicago and State of Illinois, or at its agency in the Borough of Manhattan, City and State of New York, ... and ..... Dollars, without deduction for any tax or taxes (other than Federal income taxes) required to be paid or retained, as provided in, and being the semi-annual dividend then due on, Certificate No. ..... of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series DD, payable only out of rentals received by the Trustee under the Lease referred to in said certificate.

Continental Illinois National Bank and Trust Company of Chicago,
as Trustee,

By.....
Assistant Secretary.

(Form of Guaranty.)

Chicago, Milwaukee, St. Paul and Pacific Railroad Company, for a valuable consideration, hereby unconditionally guarantees to the bearer of the within Certificate, as provided in the Agreement referred to in

said Certificate, the prompt payment of One Thousand Dollars, being the principal of said Certificate, when the same shall become due and payable, whether at the maturity thereof or by declaration or otherwise, and the dividends thereon at the rate of 2 per cent per annum on the semiannual dates mentioned in said Certificate and in the dividend warrants thereunto attached, all in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts.

Chicago, Milwaukee, St. Paul and Pacific Railroad Company,

By.....
Authorized Agent.

Section 3. The Trust Certificates shall be signed in the name and on behalf of the Trustee by one of its Vice-Presidents, and its corporate seal shall be thereunto affixed and attested by its Secretary or one of its Assistant Secretaries. In case any of the officers of the Trustee who shall have signed and sealed any of the Trust Certificates shall cease to be such officers of the Trustee before the Trust Certificates so signed and sealed shall have been issued and delivered by the Trustee, such Trust Certificates shall be adopted by the Trustee and be issued and delivered as though the persons who signed and sealed such Trust Certificates had not ceased to be such officers of the Trustee. The dividend warrants to be thereunto attached shall be authenticated by the facimile signature of the present or any future Assistant Secretary of the Trustee, and the Trustee may adopt and use for that purpose any such facsimile signature notwithstanding the fact that such Assistant Secretary may have ceased to be such Assistant Secretary at the time when any such Trust Certificate shall be issued and delivered as herein provided. Before executing and delivering any Trust Certifi-

cates the guaranty of the Railroad Company shall be duly executed thereon as hereinafter in Section 2 of Article III provided, and all matured dividend warrants thereto appertaining shall be cut off and canceled and delivered by the Trustee to the Railroad Company.

Section 4. Trust Certificates shall be in bearer form and shall pass by delivery.

Dividends upon the Trust Certificates shall be payable only upon presentation and surrender of the appropriate dividend warrants, or, in the case of temporary Trust Certificates without warrants, only upon presentation of such temporary Trust Certificates for a notation of such payment thereon.

Anything to the contrary herein notwithstanding, the parties hereto may deem and treat the bearer of any Trust Certificate 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.

Section 5. Temporary printed Trust Certificates, with or without dividend warrants, in such form and denominations as the Trustee may determine, may be issued by the Trustee, having endorsed thereon said guaranty of the Railroad Company, which shall be exchangeable, without cost, upon surrender for definitive Trust Certificates, of equal principal amount and of the same maturity or maturities and having endorsed thereon said guaranty of the Railroad Company, when the same shall have been prepared. 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 Railroad Company.

SECTION 6. In case any Trust Certificate, or the dividend warrants thereto attached, shall become mutilated or defaced or be lost, destroyed or stolen, then on the terms herein set forth, and not otherwise, the Trustee shall execute and deliver a new Trust Certificate (and the Railroad Company shall execute its guaranty thereon), with all unmatured dividend warrants, if any, appertaining thereto, of like maturity, tenor and date, and bearing the same serial number as the one mutilated, defaced, lost, destroyed or stolen, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Trust Certificate and warrants, or in lieu of and substitution for the same if lost, destroyed or stolen, and make payment of any matured dividend warrants appertaining to the same. The applicant for a new Trust Certificate shall furnish to the Trustee and to the Railroad Company evidence to their satisfaction of the loss, destruction or theft of said Trust Certificate or warrants alleged to have been lost, destroyed or stolen and of the ownership and authenticity of such mutilated, defaced, lost, destroyed or stolen Trust Certificate and warrants, and also such security or indemnity as may be required by the Trustee and by the Railroad 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, defaced, lost, destroyed or stolen 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.

ARTICLE III.

SECTION 1. The Railroad 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 may be liable, and all taxes (other than Federal income taxes) which the Trustee or the Railroad Company may be required to pay or to retain from the principal of the Trust Certificates or the dividends payable in respect thereof, under any present or future law of the United States of America or of any state, county, municipality or other lawful taxing authority therein.

SECTION 2. The Railroad Company covenants and agrees and unconditionally guarantees that the bearer of each of the Trust Certificates shall receive the principal amount thereof, in such coin or currency of the United States of America as, at the respective times of payment, is legal tender for public and private debts, when and as the same shall become due and payable, whether at the maturity thereof or by declaration or otherwise (and, if not so paid, with interest thereon at the same rate per annum as provided in the dividend warrants), and shall receive dividends thereon in like coin or currency at the rate of 2 per cent per annum from June 1, 1948, to the date of maturity of such Trust Certificate, at the times and places and otherwise as expressed in the Trust Certificates and the warrants thereto attached (and if not so paid, with interest thereon at the same rate per annum as provided in the dividend warrants); all without deduction for any tax, assessment or other governmental charge (other than Federal income taxes) which the Railroad Company or the Trustee may be required to pay, or to retain there-

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from, under any present or future law of the United States of America, or of any state, county, municipality or other lawful taxing authority therein, and the Railroad Company further covenants and agrees to endorse upon each of the Trust Certificates, definitive or temporary, at or before the issue and delivery thereof by the Trustee, its unconditional guaranty of the prompt payment of the principal thereof and of the dividends thereon, in substantially the form in Section 2 of Article II hereof provided. Said guaranty so endorsed shall be signed in the name and on behalf of the Railroad Company by such officer or officers as shall have been duly authorized by the Board of Directors of said Railroad Company to sign upon its behalf. In case any of the officers of the Railroad Company who shall have signed such guaranty shall cease to be such officers of the Railroad Company before the Trust Certificates shall have been actually issued and delivered by the Trustee, such guaranty shall nevertheless be as effective and binding upon the Railroad Company as though the persons who signed such guaranty had not ceased to be such officers of the Railroad Company.

ARTICLE IV.

SECTION 1. The Railroad 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 debts, obligation or claim which, if unpaid, might be or become a lien or charge upon or against any of the Trust Equipment, except upon the leasehold interest of the Railroad 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 the holders of the Trust Certificates in the Trust Equipment.

SECTION 2. The Railroad 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, the expenses incident to the preparation, execution and exchange of the Trust Certificates and dividend warrants, including the temporary Trust Certificates, or connected with the preparation, execution, recording, registration and filing hereof or of said Lease or of any instruments executed under the provisions hereof or of said Lease in respect of the Trust Equipment or Lease, or any equipment or parts used to replace any of the same.

SECTION 3. The Railroad Company covenants and agrees with all convenient speed to cause this Agreement and said Lease and any supplemental leases and agreements which may be executed under the terms of this Agreement, or of said Lease, to be duly filed or recorded in all states wherein are situated railroad lines which the Railroad Company operates or to which it has title or over which it has trackage rights, or wherein are situated railroad lines of any railroad company a majority of whose capital stock is owned or controlled by the Railroad Company, and otherwise as may now or hereafter be provided by law for the full protection of the title and rights of the Trustee and of the holders of the Trust Certificates, so that this Agreement and said Lease and all other such supplemental instruments may at all times be duly filed and recorded.

SECTION 4. The Railroad Company covenants and agrees

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from time to time to do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and said Lease and the intent thereof.

ARTICLE V.

SECTION 1. In order to prevent any accumulation of Trust Certificates or of dividend warrants after maturity, neither the Trustee nor the Railroad Company shall directly or indirectly extend or assent to the extension of the time for the payment of any Trust Certificate 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 Railroad Company shall directly or indirectly be a party to or approve of any arrangement for purchasing or funding any of said Trust Certificates 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 or dividend warrant shall be so extended, whether or not such extension be by or with the consent of the Trustee or the Railroad 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 Railroad 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 Railroad Company, such Trust Certificate, dividend or dividend warrant shall not be entitled to the benefit of said Lease or of this Agreement, except subject to the prior payment in full of

the principal of all other Trust Certificates, dividends and dividend warrants, whether the same be then matured or unmatured.

SECTION 2. In case one or more of the events of default described in Article Seventh of said Lease shall happen, the Trustee in its discretion may, and at the request of the bearers of twenty per cent (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 (so far as may be necessary to perform the trusts hereunder), at public sale, for cash or upon credit, as the Trustee may deem most beneficial to the interest of the bearers of said Trust Certificates. Upon the written request of the bearers of twenty per cent (20%) in principal amount of the Trust Certificates at the time outstanding, in case one or more of said events of default shall happen (whether the principal of the Trust Certificates shall have been declared due and payable or not), it shall be the duty of the Trustee upon being indemnified as hereinafter provided to take all steps for the protection and enforcement of its rights and the rights of the bearers of the Trust Certificates, and to exercise one or more of the powers of entry, sale or lease in said 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 interest of the bearers of the Trust Certificates; but, anything in this Agreement to the con-

trary notwithstanding, upon indemnity satisfactory to the Trustee the bearers of a majority in principal amount of the Trust Certificates then outstanding shall have the right from time to time to direct what proceedings for any enforcement of said Lease and this Agreement and the sale or lease of the Trust Equipment shall be taken by the Trustee. The proceeds of such proceedings or lease or sale shall be applied by the Trustee to the payment after deducting the expenses of the trust and reasonable compensation of the Trustee and all taxes, assessments and other governmental charges which the Trustee may by law be required to pay in respect of the trust or the Trust Certificates aforesaid or the dividends thereon:

(1) of the dividends and dividend warrants then due with interest on any overdue dividends and dividend warrants at the same rate per annum as provided in the dividend warrants; and

(2) of the principal of all said outstanding Trust Certificates with interest thereon at the same rate per annum as provided in the dividend warrants, from the last preceding dividend date, whether said Certificates or any of them shall then have matured by their terms or not;

all of said payments to be in full, if said proceeds shall be sufficient and if not, then *pro rata*, without preference of principal over dividends, or of dividends over principal or otherwise (subject, however, to the provisions of Section 1 of this Article V), and without regard to the dates of maturity thereof.

The foregoing provisions, however, are subject to the condition that, if at any time after the principal of the Trust Certificates shall have been declared and have become due and payable, as hereinbefore provided, but before June 1, 1958, all arrears of rental (with interest

upon any overdue installment at the same rate per annum as provided in the dividend warrants), the expense and reasonable compensation of the Trustee and all other sums which shall have become due and payable by the Railroad Company hereunder or under said Lease (other than the principal of Trust Certificates and rental installments which shall not at the time have matured according to their terms) shall be paid by the Railroad Company before any taking possession, withdrawal, sale or lease by the Trustee of any of the Trust Equipment, and every other default in the observance or performance of any covenant or condition of this Agreement or said Lease shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then and in every such case the Trustee, if so requested by the bearers of a majority in principal amount of the Trust Certificates then outstanding and which shall not have been matured according to their terms, shall, by written notice to the Railroad Company, waive the default by reason of which the principal of the Trust Certificates shall have been declared and become due and the consequences of such default, and said Lease shall upon such waiver be and continue in full force and effect, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

Neither such retaking possession nor any withdrawal or lease or sale of the Trust Equipment by the Trustee nor any action or failure or omission to act, against the Railroad Company or in respect to the Trust Equipment, on the part of the Trustee or on the part of any bearer of any Trust Certificate or dividend warrant, nor any delay or indulgence granted to the Railroad Company by the Trustee or any such bearer, shall affect the obligations of

the Railroad Company under this Agreement or under said Lease or under its guaranty.

The Railroad Company waives presentation and demand in respect of any of the Trust Certificates and dividend warrants and waives notice of presentation and demand and of any default in the payment of principal of and dividends upon the Trust Certificates.

The Trustee may at any time, upon notice in writing to the Railroad Company, apply to any court of competent jurisdiction for instructions as to the application and distribution of any funds or property held by it.

ARTICLE VI.

SECTION 1. The Trustee hereby accepts the trust created hereby, subject to the terms and conditions hereof and of said Lease, and hereby covenants and agrees, so far as reasonably possible, subject to the provisions of Sections 4, 5 and 7 of this Article VI, to perform, and to enforce the performance of, all and singular the terms, conditions and covenants of said Lease.

SECTION 2. The Trustee covenants and agrees to apply and distribute the rentals received by it under subdivisions (c), (d), (e), (f) and (g) of Article First of said Lease, when and as the same shall be received, for the following purposes, to wit:

(a) to the payment of the necessary and reasonable expense of the trust, including the proper compensation of the Trustee and its counsel for its services and all expenses connected with the Trust Equipment and said Lease thereof;

(b) to the payment of any taxes, assessments and other governmental charges upon the Trust Equipment which it may by law be required to pay; and

to the payment of any and all taxes, assessments and other governmental charges (other than Federal income taxes) which may by law be charged against the Trustee upon the Trust Certificates or the dividends payable thereunder, or which the Trustee may be required to retain or deduct therefrom or to pay thereon under any present or future law of the United States of America, or of any state, county, municipality or other lawful taxing authority therein;

(c) to the payment of the dividends payable on the Trust Certificates and of the dividend warrants appurtenant thereto when and as the same shall become payable;

(d) to the payment of the principal of the Trust Certificates when and as the same shall become payable according to the terms thereof or hereof; and

(e) to the payment of interest on any unpaid dividends, dividend warrants or principal at same rate per annum as provided in the dividend warrants.

SECTION 3. The Trustee, at all times until the payment of the principal of all the Trust Certificates, shall keep an office or agency in the City of Chicago and State of Illinois and an agency in the Borough of Manhattan in the City and State of New York, where the Trust Certificates and dividend warrants may be presented for payment.

SECTION 4. The Trustee assumes no liability for anything other than its own wilful default, misconduct or gross neglect, or that of its officers or directors. It shall be required to undertake no act or duty in the way of taking care of or taking possession of the Trust Equipment until fully secured against all liability and expenses. The Trustee shall not be liable for the delivery of any of the Trust Equipment, or for any defect therein or in the title thereto of the Trustee, nor shall anything herein be construed as a warranty of the Trustee in respect thereof or as a representation of the value thereof, provided such

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delivery is made in accordance with the provisions of this Agreement. All representations and recitals contained in this Agreement and in said Lease are made by and on behalf of the Railroad 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 purports to have any knowledge with respect thereto, and the Trustee shall not be responsible in any way for the validity thereof, 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, nor shall it be responsible for the filing, refiling, recording or rerecording of this Agreement or of said Lease; and the Trustee may issue and deliver Trust Certificates in advance of such filing or recording.

The Trustee may exercise its powers and perform its duties hereunder and under said Lease by or through such attorneys, agents and servants as it shall appoint, and it shall be entitled to the advice of counsel (who may, in cases deemed by the Trustee, in its reasonable discretion, to be appropriate, be of counsel for the Railroad Company), and shall be protected by the advice of such counsel in anything reasonably done, or omitted to be done, by it in good faith in accordance with such advice. The Trustee shall not be liable or responsible for the neglect, default or misconduct of any attorney, agent or servant appointed and retained by it in the exercise of reasonable care, but nothing in this sentence contained shall limit any liability of the Trustee, pursuant to the first sentence of this Section 4, for acts, neglects or wilful defaults of its officers or directors.

SECTION 5. The Trustee shall be under no obligation to

take any action for the execution or enforcement of any of the trusts hereby created unless requested thereunto in writing by the bearers of not less than twenty per cent (20%) in principal amount of the then outstanding Trust Certificates, and upon being satisfactorily indemnified against expenses and liability with respect thereto, and also furnished with proof satisfactory to it as to the ownership of the Trust Certificates in respect of which any notice or request may be made; but neither any such request nor this provision therefor shall affect any discretion herein elsewhere specifically given to the Trustee to determine what action it shall take in respect of any such default, or to take action without request.

SECTION 6. No bearer of any Trust Certificate or dividend warrant issued hereunder (other than the bearer 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, after the aforesaid request in writing by the bearers of not less than twenty per cent (20%) in principal amount of the then outstanding Trust Certificates shall have been made upon the Trustee and ninety days' time elapsed for action by the Trustee upon such request, it shall decline to institute any proceedings pursuant thereto.

SECTION 7. The Trustee may, for all purposes, conclusively assume that the Railroad Company is not in default under the terms hereof until notified in writing to the contrary by the bearers of at least five per cent (5%) in principal amount of the Trust Certificates then outstanding, which notice shall distinctly specify the default desired to be brought to the attention of the Trustee.

SECTION 8. The Trustee shall not incur any liability to anybody in acting upon any notice, consent, order, certifi-

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cate, warrant, receipt, request or other paper or instrument reasonably believed by it to be genuine or authentic, and to be signed by the proper party or parties and reasonably believed by it to be sufficient.

SECTION 9. The Trustee, in so far as permitted by law, will allow such interest upon all moneys received by it under the provisions of this Agreement or of said Lease as during that time is allowed by it upon deposits of a similar character.

SECTION 10. The Trustee may resign and be discharged from the trusts created by this Agreement by mailing to the Railroad Company notice in writing of such resignation, specifying a date when it is desired that such resignation, shall take effect. Such notice shall be published at least once in each of three successive calendar weeks prior to the date specified in such notice, on any day or days of the week, in two daily newspapers printed in the English language, one published and of general circulation in the City of Chicago and State of Illinois and the other in the Borough of Manhattan in the City and State of New York. Such resignation shall take effect immediately upon, but not prior to, the appointment of, and acceptance of the trust by, such successor trustee as hereinafter provided, whether on, prior to, or subsequent to, the date stated in said notice of resignation.

Any trustee hereunder may be removed at any time by an instrument in writing filed with the Trustee and executed by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding.

SECTION 11. In case at any time the Trustee shall resign or shall be removed or otherwise shall become incapable of acting, a successor may be appointed by the bearers of

a majority in principal amount of the Trust Certificates at the time outstanding by an instrument or concurrent instruments signed by such bearers or their attorneys in fact duly authorized; but until a new trustee shall be appointed by such bearers as herein authorized, the Railroad Company, by an instrument executed by the President or the Vice-President and Comptroller of the Railroad Company, or its duly authorized agent, shall appoint a trustee to fill such vacancy. If the Railroad Company shall fail, within thirty days after the receipt of notice that the Trustee has resigned, to appoint a trustee to fill such vacancy, and if a successor trustee shall not have been appointed by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee. Every such successor trustee, whether appointed by the bearers of the Trust Certificates or by the Railroad Company or by order of court, shall always be a trust company or bank having power so to act, shall be a member bank of the Federal Reserve System, or of such system of banks, if any, as may be established in lieu thereof, shall be organized under the laws of the United States of America, or the State of Illinois and having an office in the City of Chicago and State of Illinois, or the State of New York and having an office in the Borough of Manhattan in the City and State of New York, and shall have a capital and surplus aggregating at least Five Million Dollars. After any such appointment by the Railroad Company or by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding the Railroad Company shall cause notice of such appointment to be published once a week in each of four successive weeks in two daily newspapers printed in the English language, one published and

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of general circulation in the City of Chicago and State of Illinois, and the other in the Borough of Manhattan in the City and State of New York; but any new trustee so appointed by the Railroad Company or by a court of competent jurisdiction shall immediately, and without further act, be superseded by a trustee appointed, in the manner above provided, by the bearers of a majority in principal amount of the Trust Certificates at the time outstanding, provided such appointment is made within a period of one year after the Trustee shall resign, be removed or become incapable of acting.

Any successor trustee appointed hereunder shall execute, acknowledge and deliver to the Railroad 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 Railroad 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 Railroad Company.

Any corporation resulting from any merger or consoli-

dation to which the Trustee, or any successor to it, shall be a party, shall be the 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, provided such corporation shall be a corporation having power so to act, shall be a member bank of the Federal Reserve System, or of such system of banks, if any, as may be established in lieu thereof, shall be organized under the laws of the United States of America, or the State of Illinois and having an office in the City of Chicago and State of Illinois, or the State of New York and having an office in the Borough of Manhattan, in the City and State of New York, and shall have a capital and surplus aggregating at least Five Million Dollars.

SECTION 12. The Trustee shall be entitled to reasonable compensation for all services rendered by it and the Railroad Company agrees to pay from time to time, on demand of the Trustee, such compensation and to reimburse the Trustee for, and defend and save it harmless against, any and all loss, damage, liability, claims, demands, disbursements and expenses, including reasonable counsel fees, which it may incur hereunder or under said Lease, and to secure the payment thereof the Trustee shall have a lien on the Trust Equipment and the proceeds thereof prior to the rights therein of the bearers of Trust Certificates.

The Trustee may become the owner of Trust Certificates and 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.

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ARTICLE VII.

In case of the death or inability to act of either of the Vendors, the other Vendor shall have and discharge all the powers of the Vendors. In case of the death or inability to act of both of the Vendors, the Trustee shall receive and distribute or pay for the account of the original Vendors, to the parties entitled to receive the same from the original Vendors, all Trust Certificates issuable or Deposited Cash or other moneys payable to the original Vendors by the Trustee hereunder. Any action taken by either of the Vendors shall have the same force and effect as if taken by both of them. The Vendors shall incur no liability hereunder, or under any bill of sale, guaranty or warranty executed by them as herein provided, for anything other than their own wilful default, misconduct or gross neglect. The Vendors shall be entitled to the advice of counsel (who may in appropriate cases be of counsel for the Railroad 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 VIII.

Any request or other instrument required by this Agreement to be signed or executed by bearers of Trust Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such bearers 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 conclusively be deemed to be satisfactory to the Trustee), 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 Illinois, acknowledgments of deeds to be recorded 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;

(b) the amount of Trust Certificates held by any person executing any such request or other instrument as a Certificate holder, and 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.

ARTICLE IX.

At the termination of said Lease, any moneys, remaining in the hands of the Trustee, after paying the principal of and dividends upon the Trust Certificates, and the expenses of the Trustee, including its reasonable compensation, shall be paid to the Railroad Company.

ARTICLE X.

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 the bearers of the Trust Certificates and the bearers of the appurtenant dividend warrants, any right, remedy or claim, under or by reason of this Agreement, or of any term, covenant or condition thereof, and all of the terms, covenants, conditions, promises and agreements in this Agreement contained shall be for the sole and exclusive benefit of the parties hereto and their successors and of the bearers of the Trust Certificates and the bearers of the dividend warrants.

ARTICLE XI.

The term "Trustee" as used herein and in said Lease shall be held and construed to mean Continental Illinois National Bank and Trust Company of Chicago, its successors and assigns; and the term "Railroad Company" herein to mean Chicago, Milwaukee, St. Paul and Pacific Railroad Company, its successors and assigns. The term "Trust Equipment" whenever used herein or in said Lease, unless otherwise indicated by the context, is intended to include all railroad equipment at any time covered by said Lease or any supplemental lease or this Agreement or required or intended so to be. The terms "Trust Certificate" or "Trust Certificates," whenever used herein or in said Lease, include, unless the context otherwise indicates, both temporary and definitive certificates. The term "State" whenever used herein or in said Lease shall include the District of Columbia.

Whenever, under the provisions hereof, it is necessary or proper for any notice or demand to be given to or made upon the Railroad Company, or if at any time it is desired to give any such notice or make any such demand, such notice or demand may be given or made to the Railroad

Company by depositing a written statement thereof, securely enclosed in a postpaid wrapper in the United States registered mail, directed to the Railroad Company at Union Station Building, Chicago 6, Illinois, and an affidavit by any person representing or acting on behalf of the Trustee as to such mailing, shall be conclusive evidence of the giving of such notice and the making of such demand.

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.

IN WITNESS WHEREOF the parties of the first part have hereunto set their hands and seals, and the parties of the second and third parts have caused their respective corporate names to be signed hereto by their respective officers thereunto duly authorized and their respective corporate seals to be hereto affixed, duly attested, as of the day and year first above written.

PAUL B. ROBB (L. S.)

H. J. GROENER (L. S.)

Signed, sealed and delivered by Paul B. Robb and H. J. Groener in the presence of:

H. H. CONLEY

H. J. WAGNER

Attesting Witnesses.

CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO,
As Trustee,

By R. M. KIMBALL *Vice-President.*

Attest:

E. J. FRIEDRICH *Assistant Secretary.*

Signed, sealed and delivered by Continental Illinois National Bank and Trust Company of Chicago in the presence of:

H. W. CONLEY

H. J. WAGNER

Attesting Witnesses.

CHICAGO, MILWAUKEE, ST. PAUL AND
PACIFIC RAILROAD COMPANY,

By J. W. SEVERS VICE *President*

Attest:

T. W. BURTNESS *Secretary.*

Signed, sealed and delivered by Chicago, Milwaukee, St. Paul and Pacific Railroad Company in the presence of:

JOHN J. ROCHE

J. P. HYNES

Attesting Witnesses.

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

I, W. G. EVERIST, 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 15th day of June, 1948, 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 Paul B. Robb and H. J. Groener, to me personally known and known to me to be the individuals described in and the identical persons who subscribed their names to and who executed the within and foregoing instrument in writing in my presence as parties of the first part thereto and in the presence of the two witnesses whose names are thereunto subscribed as such, and said Paul B. Robb and H. J. Groener severally duly acknowledged to me in the presence of said witnesses that they signed, sealed, executed and delivered said instrument as their 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 Cook, State of Illinois, this the day and year in this my certificate first above written.

My commission as such Notary Public expires APRIL 9, 1952

W. G. EVERIST

Notary Public in and for the State of Illinois, County of Cook.

Form 11A

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 W. G. Everist

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 16th day of June A.D. 1948

Michael J. Flynn County Clerk.

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STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

I, W. G. EVERIST, 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 15th day of June, 1948, 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 R. M. KIMBALL and E. J. FRIEDRICH, to me personally known and known to me to be, respectively, a Vice-President and an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, 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 R. M. KIMBALL and E. J. FRIEDRICH, 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 R. M. KIMBALL resides in Evanston, in the State of Illinois, and that said E. J. FRIEDRICH resides in Elmhurst, in the State of Illinois; that said R. M. KIMBALL is a Vice-President, and said E. J. FRIEDRICH is an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, the corporation

described in and which executed the within and foregoing instrument in writing; that they, said R. M. KIMBALL, Vice-President, and E. J. FRIEDRICH, 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 order and 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 Assistant Secretary in behalf of said corporation by like order and 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 APRIL 9, 1952

W. G. EVERIST

Notary Public in and for the State of Illinois, County of Cook.

Form 11A

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 W. G. Everist

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 16th day of June A.D. 1948

Michael J. Flynn County Clerk.

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CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO,
As Trustee,

By R. M. KIMBALL *Vice-President.*

Attest:

E. J. FRIEDRICH *Assistant Secretary.*

Signed, sealed and delivered by
Continental Illinois National
Bank and Trust Company of
Chicago in the presence of:

H. W. CONLEY

H. J. WAGNER

Attesting Witnesses.

CHICAGO, MILWAUKEE, ST. PAUL AND
PACIFIC RAILROAD COMPANY,

By J. W. SEVERS VICE *President*

Attest:

T. W. BURTNESS *Secretary.*

Signed, sealed and delivered by
Chicago, Milwaukee, St. Paul
and Pacific Railroad Company
in the presence of:

JOHN J. ROCHE

J. P. HYNES

Attesting Witnesses.

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

I, W. G. EVERIST, 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 15th day of June, 1948, 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 Paul B. Robb and H. J. Groener, to me personally known and known to me to be the individuals described in and the identical persons who subscribed their names to and who executed the within and foregoing instrument in writing in my presence as parties of the first part thereto and in the presence of the two witnesses whose names are thereunto subscribed as such, and said Paul B. Robb and H. J. Groener severally duly acknowledged to me in the presence of said witnesses that they signed, sealed, executed and delivered said instrument as their 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 Cook, State of Illinois, this the day and year in this my certificate first above written.

My commission as such Notary Public expires APRIL 9, 1952

W. G. EVERIST
Notary Public in and for the State of Illinois, County of Cook.

Form 116.

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 W. G. Everist 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 said County, this 16th day of June, 1948.

Michael J. Flynn
County Clerk.

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STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

I, W. G. EVERIST, 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 15th day of June, 1948, 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 R. M. KIMBALL and E. J. FRIEDRICH, to me personally known and known to me to be, respectively, a Vice-President and an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, 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 R. M. KIMBALL and E. J. FRIEDRICH, 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 R. M. KIMBALL resides in Evanston, in the State of Illinois, and that said E. J. FRIEDRICH resides in Elmhurst, in the State of Illinois; that said R. M. KIMBALL is a Vice-President, and said E. J. FRIEDRICH is an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, the corporation

described in and which executed the within and foregoing instrument in writing; that they, said R. M. KIMBALL, Vice-President, and E. J. FRIEDRICH, 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 order and 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 Assistant Secretary in behalf of said corporation by like order and 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 APRIL 9, 1952

W. G. EVERIST
Notary Public in and for the State of Illinois, County of Cook.

Form 116.

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 W. G. Everist 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 said County, this 16th day of June, 1948.

Michael J. Flynn
County Clerk.

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STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

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 14 day of June, 1948, 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 — 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 — 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 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 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 — 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 17, 1951.

R. W. Spangenberg
R. W. SPANGENBERG
Notary Public in and for the State of Illinois, County of Cook.

STATE OF WISCONSIN }
Department of State } ss.

Received this 17th day of June, A.D., 1948, at 10:00 o'clock A.M., and recorded in Vol. 40 of Railroad Mortgages, on pages 385 to 387, incl.

Assistant Secretary of State

STATE OF ILLINOIS, }
COOK COUNTY } ss.

Form 114

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 have certificates of acknowledgment of deeds and other instruments in writing, made, at the time of taking such proof or acknowledgment, by a Notary Public in and for said 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 the County of Cook at my office in the City of Chicago, in the said County, this 16th day of June A.D. 1948.

Michael J. Flynn
County Clerk.

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CONDITIONAL SALE AGREEMENT

BETWEEN

GENERAL MOTORS CORPORATION

(ELECTRO-MOTIVE DIVISION)

AND

NORTHERN PACIFIC RAILWAY COMPANY

DATED AS OF OCTOBER 1, 1948

THIS AGREEMENT, made as of October 1, 1948, 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 NORTHERN PACIFIC RAILWAY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Wisconsin, 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 eight (8) Diesel locomotive lead units 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 FOB the tracks of the Vendee at Fridley, Minnesota, freight charges prepaid, but the Vendee shall assume all risk of loss or damage incident to transportation of the locomotives from General Motors' plant at LaGrange, 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 are as follows:

No. of Locomotives	Description	Vendee's Road Nos.	Vendor's Serial Nos.
8	1,500 Horsepower Diesel-electric locomotive lead units, Model F-3, covered by Vendee's Purchase Order No. 1147-2000, and General Motors' Order No. E-1018, more particularly described and warranted in General Motors' Specifications No. 8002-A, dated June 2, 1947, and Supplement No. 1 thereto, dated July 20, 1948, to be delivered prior to November 1, 1948.	6016 A	6656
		6016 D	6657
		6017 A	6658
		6017 D	6659
		6503 C	6652
		6504 C	6653
		6505 C	6654
		6506 C	6655

The total estimated price of all locomotives covered by this agreement is the sum of $1,432,080.

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 of $137,500.

(b) The remaining $1,100,000 of the total purchase price in ninety-six (96) equal monthly installments of $11,458.33 each, except as may otherwise be provided herein, on the fifteenth day of each month commencing November 15, 1948, 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 fifteenth day of the previous calendar month on the diminishing unpaid balances of said sum of $1,100,000, at the annual rate to be determined as provided in Section 3 hereof, until said sum of $1,100,000 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.

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 paragraph (b) 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 paragraph (b) 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, 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, subect 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, General 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 Gen-

eral 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 procedings 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 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 shall promptly repair the locomotive so damaged and restore it to good running order. In case any locomotive shall be damaged beyond repair or lost or destroyed, the Vendee shall promptly replace such locomotive with another locomotive of similar type and equal value and of substantially as good material and construction, or 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, with suitable allowance for interest, 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, in the same manner and extent as others of its locomotives, 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 Vendor, 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 the time of such payment until repaid. All amounts payable under any such policy of insurance, in respect of any such locomotive, but not exceeding the unpaid balance of the purchase price of such locomotive, shall be payable to and shall be retained by the Vendor unless and until the Vendee shall have made all replacements or payments and all repairs required by this Section 7, and any such payments permanently retained by the Vendor, with suitable allowance for interest, 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.

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 "Northern Pacific Railway," "Northern Pacific," or "N. P. Ry. Co." 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 respect 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 or 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 realized 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 volun-

tary 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.

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 protection 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 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 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, 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 here-

unto affixed, duly attested, as of the day and year first above written.

GENERAL MOTORS CORPORATION
(Electro-Motive Division)
By R. K. EVANS
Vice President.

(SEAL)

Attest:
J. C. DAVIDSON
Ast. Secretary

Signed, sealed and delivered
in the presence of:
SHELDON M. LOOK
DOROTHY J. SILARSKI

NORTHERN PACIFIC RAILWAY COMPANY
By J. H. POORE
Vice President.

(SEAL)

Attest:
HUGH MCLEOD
Assistant Secretary.

Signed, sealed and delivered
in the presence of:
BEATRICE E. NACHTRIEB
JOAN L. JUNGHANS

STATE OF MICHIGAN, } ss.
COUNTY OF WAYNE, }

I, JUEL A. MILLER, 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 22nd day of October, A. D. 1948, 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 to the within and foregoing instrument, R. K. Evans and J. C. Davidson, each to me personally known and known to me to be, respectively, Vice President and an Assistant Secretary of General Motors Corporation, 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 R. K. Evans and J. C. Davidson, 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 R. K. Evans resides in Birmingham, Michigan, and that the said J. C. Davidson resides in Detroit, Michigan; that said R. K. Evans is Vice President and said J. C. Davidson is Assistant Secretary of General Motors Corporation, 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 said County of Wayne, State of Michigan, this the day and year in this my certificate first above written.

JUEL A. MILLER
Notary Public, Wayne County, Michigan.
My Commission expires July 5, 1952.
(Notarial Seal)

STATE OF MINNESOTA, } ss.
COUNTY OF RAMSEY, }

I, G. 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 acknowledgments and proofs of deeds and conveyances of land, tenements, and hereditaments in said County, DO HEREBY CERTIFY that on this 16th day of October 1948, 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. H. Poore 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 J. H. Poore 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 J. H. Poore 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 the said J. H. Poore is a Vice President and the said Hugh McLeod is 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 J. H. Poore 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 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.

G. T. C. PETERSON
G. T. C. PETERSON
Notary Public, Ramsey Co., Minn.
My Commission Expires Oct. 21, 1949

(Notarial Seal)

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 1ST day of NOVEMBER A. D. 1948 at 10:00 o'clock A. M. and recorded in Vol. 40 of RAILROAD MORTGAGES on page 388-401, Incl.
Robert C. Zimmerman
Assistant Secretary of State

EXHIBIT 1.

ASSIGNMENT

OF

CONDITIONAL SALE AGREEMENT

BETWEEN

GENERAL MOTORS CORPORATION

(ELECTRO-MOTIVE DIVISION)

AND

NORTHERN PACIFIC RAILWAY COMPANY

TO

THE FIRST NATIONAL BANK OF SAINT PAUL

EXHIBIT 1

AGREEMENT, dated as of October 4th, 1948, 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 THE FIRST NATIONAL BANK OF SAINT PAUL, a National Banking Association, with its principal place of business at St. Paul (1), Minnesota, hereinafter referred to as the "Bank," party of the second part, and NORTHERN PACIFIC RAILWAY COMPANY, a corporation of the State of Wisconsin, 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 October 1, 1948, covering the construction, sale and delivery of eight (8) Diesel locomotive lead units, hereinafter sometimes referred to as "locomotives," a description and number of locomotives and the estimated total price being as follows:

Eight (8) 1,500 Horsepower Diesel-electric locomotive lead units, Model F-3, bearing the Railroad's road numbers 6016 A, 6016 D, 6017 A, 6017 D, 6503 C, 6504 C, 6505 C and 6506 C, respectively, at a total estimated price of $1,432,080;

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 $1,100,000 payable by the Railroad to the Manufacturer on account of the purchase price of said locomotives under paragraph (b) 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 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 of $137,500.

The amounts to be so paid by the Bank to the Manufacturer will aggregate $1,100,000.

3. The Railroad agrees to pay to the Bank interest at the rate of Two and fifty-five hundredths per cent (2.55%) per annum, at the times and under the conditions provided in paragraph (b) of Section 2 of said Agreement from the fifteenth day of October, 1948.

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 paragraph (b) 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 installment 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, setoff 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, setoff 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 the State of Minnesota.

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 R. K. EVANS
Vice President
(SEAL)

Attest:
J. C. DAVIDSON
Assistant Secretary

Signed, sealed and delivered
in the presence of:
SHELDON M. LOOK
DOROTHY J. SILARSKI
Witnesses

THE FIRST NATIONAL BANK OF SAINT PAUL
By N. P. DELANDER
Vice President
(SEAL)

Attest:
L. L. SMITH
Assistant Cashier

Signed, sealed and delivered
in the presence of:
HELEN K. SCHNEIDER
E. S. HANSEN
Witnesses

NORTHERN PACIFIC RAILWAY COMPANY
By J. H. POORE
Vice President.
(SEAL)

Attest:
HUGH MCLEOD
Assistant Secretary.

Signed, sealed and delivered
in the presence of:
BEATRICE E. NACHTRIEB
JOAN L. JUNGHANS
Witnesses

STATE OF MICHIGAN, } ss.
COUNTY OF WAYNE, }

I, JUEL A. MILLER, 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 22nd day of October, A. D. 1948, 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 to the within and foregoing instrument, R. K. Evans and J. C. Davidson, each to me personally known and known to me to be, respectively, Vice President and an Assistant Secretary of General Motors Corporation, 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 R. K. Evans and J. C. Davidson, 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 R. K. Evans resides in Birmingham, Michigan, and that the said J. C. Davidson resides in Detroit, Michigan; that said R. K. Evans is Vice President and said J. C. Davidson is Assistant Secretary of General Motors Corporation, 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 said County of Wayne, State of Michigan, this the day and year in this my certificate first above written.

JUEL A. MILLER
Notary Public, Wayne County, Michigan.
My Commission expires July 5, 1952.
(Notarial Seal)

STATE OF MINNESOTA, }
COUNTY OF RAMSEY. } ss.

I, K. F. MERRILL, 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 18 day of October 1948, 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, N. P. Delander and L. L. Smith, each to me personally known and known to me to be respectively Vice President and Assistant Cashier of The First National Bank of Saint Paul, St. Paul, Minn., 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 N. P. Delander and L. L. Smith, 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 N. P. Delander resides in St. Paul in the State of Minn. and that the said L. L. Smith, resides in W. St. Paul in the State of Minn.; that the said N. P. Delander is Vice President and the said L. L. Smith is Assistant Cashier of The First National Bank of Saint Paul, St. Paul, Minn. one of the corpora-

tions described in and which executed the within and foregoing instrument in writing; that they, the said N. P. Delander and L. L. Smith 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 Ramsey, State of Minn., this the day and year in this my certificate first above written.

K. F. MERRILL
K. F. MERRILL
Notary Public, Ramsey County, Minn.
My Commission Expires Feb. 5, 1954
(Notarial Seal)

STATE OF MINNESOTA, }
COUNTY OF RAMSEY, } ss.

I, G. 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 acknowledgments and proofs of deeds and conveyances of land, tenements, and hereditaments in said County, DO HEREBY CERTIFY that on this 16th day of October 1948, 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. H. Poore 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 J. H. Poore 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 J. H. Poore 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 the said J. H. Poore is a Vice President and the said Hugh McLeod is 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 J. H. Poore 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 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.

G. T. C. PETERSON
G. T. C. PETERSON
Notary Public, Ramsey Co., Minn.
My Commission Expires Oct. 21, 1949

(Notarial Seal)

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 1ST day of
NOVEMBER A. D. 1948 at 10:00
o'clock A. M. and recorded in Vol.
40 RAILROAD MORTGAGES
on page 402-409, Incl.
Robert C. Zimmerman
Assistant Secretary of State

409

WISCONSIN

Executed in 22 Counterparts

Counterpart No. 4

Conditional Sale Agreement

DATED AS OF JULY 1, 1951

BETWEEN

FAIRBANKS, MORSE & CO.

AND

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

FOR PURCHASE OF
SIX 4800 HP DIESEL ELECTRIC FREIGHT LOCOMOTIVES
AND
FIVE 1200 HP DIESEL ELECTRIC SWITCHING LOCOMOTIVES

Agreement and Assignment

DATED AS OF JULY 5, 1951

BETWEEN

FAIRBANKS, MORSE & CO.

AND

THE FIRST NATIONAL BANK OF CHICAGO

Printed by the Twentieth Century Press, Inc., Chicago, Illinois

This Agreement dated as of July 1, 1951, 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"):

Six (6) new, 4800 HP Diesel Electric Freight 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)	16-L-479	23A	16-L-491	23B	16-L-480	23C
(2)	16-L-481	24A	16-L-492	24B	16-L-482	24C
(3)	16-L-483	25A	16-L-493	25B	16-L-484	25C
(4)	16-L-485	26A	16-L-494	26B	16-L-486	26C
(5)	16-L-487	27A	16-L-495	27B	16-L-488	27C
(6)	16-L-489	28A	16-L-496	28B	16-L-490	28C

all as described by Seller's Specification No. ALT 200.6A, Model CF 16-4 and Seller's proposal No. 438A, dated October 2, 1950, and Buyer's order dated October 23, 1950, and supplements thereto.

Copies of said Specifications have been furnished to the Buyer, and are, by reference, made a part of this Agreement, as fully as though expressly set forth therein.

Five (5) new, 1200 HP Diesel Electric Switching Locomotives, bearing Seller's Serial Numbers and Buyer's Road Numbers, as follows:

Serial No.	Road No.
12-L-448	1833
12-L-449	1834
12-L-450	1835
12-L-451	1836
12-L-452	1837

all as described by Seller's Specification No. ALT 100.6B, Model H12-44 and Seller's proposal No. 444, dated August 31, 1950, and Buyer's order dated October 4, 1950, and supplements thereto.

Copies of said Specifications have been furnished to the Buyer, and are, by reference, made a part of this Agreement, as fully as though expressly set forth therein.

The purchase price of said equipment, as hereinafter set forth, is the lawful price permitted to Seller under applicable laws and regulations of the United States of America in effect at the date of this agreement and shall be subject to increase in the manner, to the extent and upon the conditions hereinafter set forth in the event that hereafter such increase be permitted to Seller by law or by absence of limitation of law.

Said purchase price shall, subject to increase as aforesaid, be the principal amount of Five Hundred Seventeen Thousand, Six Hundred Forty Dollars ($517,640.00) for each 4800 horsepower Diesel Electric Freight Locomotive F.O.T. Seller's Plant at Beloit, Wisconsin, and the principal sum of One Hundred Four Thousand, Eight Hundred Twenty-nine Dollars ($104,829.00) for each 1200 horsepower Diesel Electric Switching Locomotive F.O.T. Seller's plant at Beloit, Wisconsin. Interest shall be paid by the Buyer at the rate of Three and Ten Hundredths Per Cent (3.10%) 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.

It is expressly understood and agreed that in the event there should be a general increase in labor and/or material costs as to warrant, in the opinion of the Seller, increasing either of the above mentioned purchase prices (which prices are otherwise firm), the Seller shall notify the Buyer in writing of the amount of such increase before construction of such locomotives is started, and the Buyer shall have the option of either accepting such locomotives at the increased purchase price, or terminating this Agreement, in so far as it pertains to the construction, sale, delivery and acceptance of any such locomotives, which option shall be exercised by notice in writing to the Seller within ten (10) days after receipt by the Buyer of notice from the Seller of such price increase. In case such notice or notices terminate this Agreement with respect to any such locomotive or locomotives, this Agreement shall not thereafter be applicable thereto, but shall remain in full force and effect with respect to any and all other locomotives then or thereafter delivered hereunder. Unless such notice by the Buyer is in fact received by the Seller within the period specified, it shall be presumed that such increase is accept-

able to the Buyer, and the Seller shall be authorized to proceed with the construction of such locomotives.

If either of the above mentioned purchase prices of any of the above described locomotives is increased pursuant to the provisions of the last preceding paragraph and such increase may be lawfuly applied by the Seller at the time of the delivery and acceptance of the locomotive or locomotives affected thereby, then the Buyer shall pay the full amount of such increase to the Seller in cash at the time of the delivery and acceptance of such locomotive or locomotives. If either of the above mentioned purchase prices of any of the above described locomotives is increased pursuant to the provisions of the last preceding paragraph, but the Seller should not be lawfully authorized to collect such increase until after the delivery and acceptance of the locomotive or locomotives affected thereby, then the Buyer shall pay to the Seller the entire amount of such increase in cash upon rendition of a supplemental invoice or invoices by the Seller at the time that the collection by the Seller of such increase is lawfully authorized. Copies of any such notices by either Seller or Buyer shall be promptly furnished to any assignee hereof.

It is further expressly understood and agreed, that, in the event there should be a reduction in the purchase price of any of said locomotives before delivery, the amount of such reduction shall be applied by the Seller toward the down payment on the purchase of any such locomotive.

The Seller shall deliver said locomotives to the Buyer at the Seller's plant in Beloit, Wisconsin, from time to time, and whenever any of said locomotives are completed and ready for shipment.

Each of said locomotives shall, during construction, be subject to inspection by the Buyer's Superintendent of Motive Power or his duly authorized representative. Upon

completion of each locomotive by Fairbanks, Morse & Co. it shall be presented to said inspector for inspection and if such locomotive conforms to the specifications applicable thereto, said inspector shall execute and deliver to Fairbanks, Morse & Co., upon delivery of such locomotive, a certificate of inspection in six counterparts stating that such locomotive has been inspected and is accepted by him on behalf of the Buyer and is marked as required by the provisions of Section 3 of the Agreement. The execution of such certificate of acceptance shall be conclusive evidence that 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 December 31, 1951, 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 December 31, 1951.

Seller's obligation as to time of delivery 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 Twenty-nine Thousand, Six Hundred Forty Dollars ($129,640.00) for each 4800 HP Diesel Electric Freight Locomotive, representing approximately twenty-five per cent (25%) of the purchase price of each such freight 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) Twenty-six Thousand, Eight Hundred Twenty-nine Dollars ($26,829.00) for each 1200 HP Diesel Electric Switching Locomotive, representing approximately twenty-five per cent (25%) of the purchase price of each such switching 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;

(c) 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 Three and Ten Hundredths Per Cent (3.10%) 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;

(d) 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 said freight locomotives and continuing for a total of thirty-two (32) consecutive quarterly installment payments, the respective amounts of Thirteen Thousand, Seven Hundred Thirty-seven Dollars and Twenty-seven Cents ($13,737.27), excepting the thirty-

second (32nd) quarter, when the amount shall be Thirteen Thousand, Seven Hundred Thirty-seven Dollars and Fourteen Cents ($13,737.14) for each 4800 HP Diesel Electric Freight Locomotive. Each of said thirty-two (32) quarterly installment payments includes both principal and interest at the rate of Three and Ten Hundredths Per Cent (3.10%) 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.

(e) 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 said switching locomotives and continuing for a total of thirty-two (32) consecutive quarterly installment payments, the respective amounts of Two Thousand, Seven Hundred Sixty-one Dollars and Sixty-two Cents ($2,761.62), excepting the thirty-second (32nd) quarter, when the amount shall be Two Thousand, Seven Hundred Sixty-one Dollars and Forty-eight Cents ($2,761.48) for each 1200 HP Diesel Electric Switching Locomotive. Each of said thirty-two (32) quarterly installment payments includes both principal and interest at the rate of Three and Ten Hundredths Per Cent (3.10%) 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.

In addition, in case of any acceptable price increase, made pursuant to Section 1, Buyer shall pay the amount thereof to Seller, in cash, on the date of acceptance of the locomotive or locomotives, to which such price increase is applicable or thereafter upon supplemental invoices, as the case may be, as provided for in foregoing Section 1.

The Buyer further covenants and agrees to pay, to the extent lawfully enforceable, interest at the rate of 5% 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 multiple 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 3.10% 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 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 durable markers 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 substantially as good 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.* All payments to be made by the Buyer hereunder shall be free of expenses to the Seller 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) hereafter 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 hereof, all of which expenses and taxes the Buyer assumes and agrees to pay in addition to the above mentioned purchase price of said Equipment. The Buyer shall also 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 guarantees that each diesel locomotive furnished pursuant hereto will be well made, of good material and in a workmanlike manner, and agrees that if any part of such locomotive, while in normal use and service, should fail because of defective material or workmanship in the manufacture thereof, either within one year after delivery to the original purchaser or before said locomotive has been operated 100,000 miles in service, whichever shall first occur, Seller will replace each such defectively manufactured part, free of charge, F.O.B. cars, its factory; but Seller shall not be liable, for expense or otherwise, with respect to alterations, repairs, or replacements made without its express written authorization, or for any damages whatsoever, whether direct or consequential, for delay or otherwise, its entire liability (other than that of its express guaranty with respect to patent infringement) being strictly limited to the replacement in the manner aforesaid of defectively manufactured parts failing within the time specified. Unless return is waived, defective parts shall be returned to Seller at its factory, all transportation charges prepaid.

(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 Superintendent of Motive

Power, 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 Superintendent of Motive Power, 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 Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, Washington and Wisconsin.

(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 Fairbanks, Morse & Co. and each successive assignee of the rights of the Seller under this Agreement 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 any liability, loss, cost, damage, or expense suffered or incurred by Buyer by reason of any threat or claim of or action for patent infringements, actual or alleged, in respect of any part, appliance, or matter of con-

struction or design of said locomotive, other than parts, appliances, or matters of construction or design specified or required by Buyer and not regularly manufactured by or originating with Seller; provided, that, promptly upon becoming aware of any claim or threat of or institution of action for such infringement, actual or alleged, Buyer shall notify Seller thereof and shall afford Seller an opportunity to conduct (at Seller's expense) the defense against the same and shall otherwise render all friendly and needed assistance.

(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 Fairbanks, Morse & Co. 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 and as provided in Section (4) 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.

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 5% 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 therefore 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 Buyers' 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 there-

from. 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 here-

of, 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 Equip-

ment 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, acknowledgement, 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 pursuant to lawful resolutions, all as of the day, month and year first above written.

FAIRBANKS, MORSE & CO.,

By V. H. Peterson
V. H. Peterson,
Vice-President.

Attest:

E. T. Sandeen,
Asst. Secretary.

Signed, sealed and delivered by Fairbanks, Morse & Co. in the presence of:

R. W. Schroeder,

J. J. Niemeyer,
Attesting Witnesses.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,

By J. W. Severs
J. W. Severs,
Vice-President.

Attest:

T. W. Burtness,
Secretary.

Signed, sealed and delivered by Chicago, Milwaukee, St. Paul and Pacific Railroad Company, in the presence of:

Gertrude W. Schoyer,
GERTRUDE W. SCHOYER,

C. L. Davis,
C. L. DAVIS,
Attesting Witnesses.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, J. A. Lehr, 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 the 26th day of July., 1951, 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 V. H. Peterson 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 thereunto subscribed as such, and said V. H. Peterson 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 V. H. Peterson resides in Evanston, in the State of Illinois, and that said E. T. Sandeen resides in Oak Park, in the State of Illinois; that said V. H. Peterson 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 V. H. Peterson, 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 November 26, 1953.

J. A. Lehr,
Notary Public in and for the State of Illinois, County of Cook.

Form 278

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, RICHARD J. DALEY, 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 and duly authorized to issue certificates of magistracy, that J. A. Lehr whose name is subscribed to the annexed Jurat, was at the time of signing the same, a Notary Public in Cook County, duly commissioned, sworn and acting as such, and authorized to administer oaths and to take acknowledgments and proofs of deeds or conveyances of lands, tenements or hereditaments, in said State of Illinois, 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 Jurat 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 26 day of July 1951

Richard J. Daley County Clerk.

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 24th day of July, 1951, 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, a Vice-President and the 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 Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto 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 Park Ridge in the State of Illinois, and that said T. W. Burtness resides in Wheaton in the State of Illinois; that said J. W. Severs is a 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 J. W. Severs, Vice-President, and T. W. Burtness, Secretary, know the corporate seal of said corporation; that the seal affixed to said instru-

ment 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 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 17, 1951.

R. W. Spangenberg
Notary Public in and for the State of Illinois, County of Cook.

Form 278

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, RICHARD J. DALEY, 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 and duly authorized to issue certificates of magistracy, that R. W. Spangenberg whose name is subscribed to the annexed Jurat, was at the time of signing the same, a Notary Public in Cook County, duly commissioned, sworn and acting as such, and authorized to administer oaths and to take acknowledgments and proofs of deeds or conveyances of lands, tenements or hereditaments, in said State of Illinois, 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 Jurat 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 26 day of July 1951

Richard J. Daley County Clerk.

This Agreement and Assignment, dated as of July 5, 1951, 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, 1951 (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 Six (6) new 4800 HP Diesel Electric Freight Locomotives, bearing Buyer's Road Numbers 23A, 23B, 23C to 28A, 28B, 28C, both inclusive, and Five (5) new 1200 HP Diesel Electric Switching Locomotives, bearing Buyer's Road Numbers 1833 to 1837, both inclusive, (hereinafter sometimes referred to as the "Equipment"), all as more particularly described in said Agreement, for an aggregate purchase price, subject to adjustment, of Three Million, Six Hundred Twenty-nine Thousand, Nine Hundred Eighty-five Dollars ($3,629,985.00), 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 Buyers, and in and to any sums becoming due under said Agreement (except the right to receive the initial cash payment of One Hundred Twenty-nine Thousand, Six Hundred Forty Dollars ($129,640.00) for each 4800 HP Diesel Electric Freight Locomotive, and of Twenty-six Thousand, Eight Hundred Twenty-nine Dollars ($26,829.00) for each 1200 HP Diesel Electric Switching Locomotive and of any increase in the purchase price of any of said locomotives made pursuant to the provisions of Section 1 of said Agreement, said initial cash payment and the payment of any such increase in purchase price 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 con-

struct 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 manufacturing 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 locomotive of said Equipment 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 Three Hundred Eighty-eight Thousand Dollars ($388,000.00) for each 4800 HP Diesel Electric Freight Locomotive, and the sum of Seventy-eight Thousand Dollars ($78,000.00) for each 1200 HP Diesel Electric Switching 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 Superintendent of Motive Power, or his duly authorized representative, stating that the unit of equipment 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 said equipment, a marker indicating the Seller as Owner, it being the intention of the parties to provide, by this Assignment, that as each unit of said Equipment is delivered at the Seller's Plant at Beloit, Wisconsin, on or before December 31, 1951, 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.

The Seller warrants that, upon receipt by the Seller from the Assignee of the balance of the purchase price, as aforesaid, of each said locomotive, there will, at such time, if the metal plates hereinafter described be then available, be plainly, permanently and conspicuously placed and fastened, and the Buyer has agreed to maintain on each side of each unit of such locomotive, 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."

If at said time such metal plates be not available, the Seller warrants that there will, at said time, be plainly and conspicuously placed and firmly fastened, and the Buyer has agreed to maintain on each side of each unit of said locomotive, a temporary marker of suitable durability, bearing the aforesaid inscription, and that as promptly thereafter as said metal plates become available, the Seller will replace or cause to be replaced said temporary markers with said metal plates.

3. It is understood and agreed, that the obligation of the Assignee to pay the purchase price of each locomotive of said Equipment, shall only extend to such locomotives of said Equipment as shall be delivered at Seller's Plant at Beloit, Wisconsin, on or before December 31, 1951, and accepted by the Buyer, and that the duty of the Assignee to pay the balance of the purchase price of any unit of said Equipment 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 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 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 at Seller's Plant at Beloit, Wisconsin, on or before December 31, 1951, and delivered to and accepted by the Buyer, and interest thereon, as well as any other rights as may be so assigned hereunder, shall not be subject to any defense, offset, 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, offset, counterclaim or recoupment whatsoever arising by reason of any other indebtedness 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 Secretaries or Assistant Secretaries or Cashier or Assistant Cashiers all as of the day, month and year first herein written.

FAIRBANKS, MORSE & CO.,

By V. H. Peterson,
Vice-President.

Attest:

E. T. Sandeen,
Assistant Secretary.

Signed, sealed and delivered by Fairbanks, Morse & Co. in the presence of:

R. W. SCHROEDER,

J. J. NIEMEYER,
Attesting Witnesses.

THE FIRST NATIONAL BANK OF CHICAGO,

By J. L. BUCHANAN,
Vice-President.

Attest:

ROBERT P. KEETH,
Assistant Cashier.

Signed, sealed and delivered by The First National Bank of Chicago in the presence of:

LORRAINE KLEINHAMMER,

KATHERINE HINTERLONG,
Attesting Witnesses.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, J. A. Lehr, 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 the 26th day of July, 1951, 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 V. H. Peterson 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 thereunto subscribed as such, and said V. H. Peterson 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 V. H. Peterson resides in Evanston, in the State of Illinois, and that said E. T. Sandeen resides in Oak Park in the State of Illinois; that said V. H. Peterson 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 V. H. Peterson, 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 November 26, 1953.

J. A. Lehr,
Notary Public in and for the State of Illinois, County of Cook.

Form 278

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, RICHARD J. DALEY, 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 and duly authorized to issue certificates of magistracy, that J. A. Lehr whose name is subscribed to the annexed Jurat, was at the time of signing the same, a Notary Public in Cook County, duly commissioned, sworn and acting as such, and authorized to administer oaths and to take acknowledgments and proofs of deeds or conveyances of lands, tenements or hereditaments, in said State of Illinois, 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 Jurat 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 26 day of July 1951.

Richard J. Daley
County Clerk.

STATE OF ILLINOIS } ss.
COUNTY OF COOK }

I, Frances Felton, 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 25th day of July, 1951, 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 Robert P. Keeth, to me personally known and known to me to be, respectively, a Vice-President and an 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 thereunto subscribed as such, and said J. L. Buchanan and Robert P. Keeth, 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 Robert P. Keeth resides in Evanston in the State of Illinois; that said J. L. Buchanan is a Vice-President and said Robert P. Keeth is an 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 Robert P. Keeth, Assistant Cashier, know the coporate seal

Form 278

STATE OF ILLINOIS, } ss.
COOK COUNTY. }

I, RICHARD J. DALEY, 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 and duly authorized to issue certificates of magistracy, that Frances Felton whose name is subscribed to the annexed Jurat, was at the time of signing the same, a Notary Public in Cook County, duly commissioned, sworn and acting as such, and authorized to administer oaths and to take acknowledgments and proofs of deeds or conveyance of lands, tenements or hereditaments, in said State of Illinois, 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 Jurat 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 26 day of July 1951.

Richard J. Daley
County Clerk.

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 said 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 June 22, 1955.

Frances Felton
FRANCES FELTON,
Notary Public in and for the State of Illinois, County of Cook.

State of Wisconsin } ss.
DEPARTMENT OF STATE }

Received this 27th day of July A. D. 1951 at 10:00 o'clock A.M. and recorded in Vol. 40 of Railroad Mortgages on page 410-430 incl.

Jos. Ramm
Assistant Secretary of State