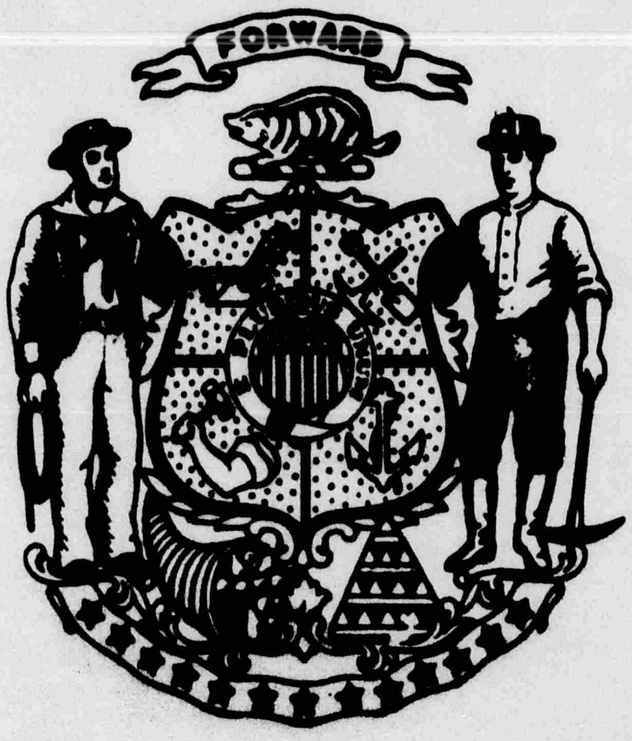
REEL NO. 42

STATE OF WISCONSIN



SECRETARY OF STATE

RAILROAD MORTGAGES

VOL. 42

414.53

Counterpart No 4

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

Lease of Railroad Equipment

DATED AS OF JULY 1, 1948

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO

TO

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

Agreement

DATED AS OF JULY 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-WARREN PRINTING COMPANY, 310 WEST JACKSON, CHICAGO

LEASE OF RAILROAD EQUIPMENT, dated as of July 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 July 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 EE," 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-

(Rec'd 2-3-49)

INDEXED

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 EE (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:

DIESEL-ELECTRIC SWITCHING LOCOMOTIVES

6 1000 H. P. Diesel-electric switching locomotives, Nos. 1692 to 1697, both inclusive,

PASSENGER-TRAIN CARS

10 10 roomette, 6 bedroom, sleeping cars, all steel, numbered and named as follows:

- 2 Lake Couer d'Alene
- 3 Lake Keechelus
- 4 Lake Pepin
- 5 Lake Oconomowoc
- 6 Lake Pend Oreille
- 7 Lake Chatcolet
- 8 Lake Pewaukee
- 9 Lake Nashotah
- 10 Lake Kapowsin
- 11 Lake Crescent

6 8 bedroom, observation, sleeping cars, all steel, numbered and named as follows:

- 12 Alder Creek
- 14 Arrow Creek
- 15 Coffee Creek
- 16 Gold Creek
- 17 Marble Creek
- 18 Spanish Creek

8 8 duplex roomette, 6 roomette, 4 bedroom, sleeping cars, all steel, numbered and named as follows:

- 19 Madison River
- 20 St. Joe River
- 21 Yellowstone River
- 22 Gallatin River
- 23 Vermillion River
- 24 Jefferson River
- 25 Chippewa River
- 26 Wisconsin River

4 16 duplex roomette, 4 bedroom, sleeping cars, all steel, numbered and named as follows:

- 27 Raymond
- 28 New Lisbon
- 29 Wisconsin Dells
- 30 Rodney

28

FREIGHT-TRAIN CARS

250 29'3", 70-ton, all steel, covered hopper cars, Nos. 99070 to 99319, 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 $5,100,000.

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 $3,820,000, 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 $3,820,000 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, divi-

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 EE, 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 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 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 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 EE, 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 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/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 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, 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 and to such Trust Equipment and which shall be in all respects subordinate to the right, title and interest of the Trustee therein and thereto, 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

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,

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 hereinafter 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

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 thereto.

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, 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: V. P. NELSON *Assistant Secretary.*

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

H. H. CONLEY

M. J. WAGNER *Attesting Witnesses.*

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

By C. H. BUFORD *President.*

Attest: *Secretary.* T. W. BURTNESS

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

RUTH E. HALL

PATRICIA McNAMEE *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 12th day of July, 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 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

and V. P. NELSON, 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 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.

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 9th day of July, 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 C. H. BUFORD and T. W. BURTNESS each 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 17, 1951

R. W. Spangenberg

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

THIS AGREEMENT, dated as of July 1, 1948, by and between PAUL B. ROBB and H. J. GROSSNER (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 $3,820,000 to a fund to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series EE, 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 $191,000 each, payable respectively on January 1st and July 1st, in each year, beginning on January 1, 1949, and ending on July 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 EE, 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 issu-

ance 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 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 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

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, 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 $5,100,000, 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 $5,100,000.

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 $3,820,000 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 two per cent per annum from July 1, 1948, payable semiannually on the first day of January and July in each year. $191,000 principal amount of the Trust Certificates shall become due and payable on January 1 and July 1 in each year beginning on January 1, 1949, and ending on July 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 3,820, 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 EE.

Total Issue not to exceed $3,820,000.

Dividends at the rate of Two 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, 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 EE, 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 July 1, 1948, to said date of maturity, payable semiannually on January first and July 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 July 1, 1948.

This certificate is one of an issue of certificates, in bearer form, in an aggregate principal amount not exceeding $3,820,000, 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 or a facsimile thereof to be printed hereon 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, 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 EE, 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 two 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, or a facsimile of its corporate seal shall be thereon imprinted and, in either case, 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 two per cent per annum from July 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 July 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 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, 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: V. E. NELSON *Assistant Secretary.*

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

H. H. CONLEY

H. J. WAGNER

Attesting Witnesses.

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

By C. H. BUFORD *President.*

Attest: T. W. BURTNESS *Secretary.*

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

RUTH E. HALL

PATRICIA McNAMEE

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 the 9th day of July, 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.

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 12th day of July, 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 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.

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 9th day of July, 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 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 17, 1951

R. W. Spangenberg
R. W. SPANGENBERG
Notary Public in and for the State of Illinois, County of Cook.

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 15TH day of JULY A. D. 1948 at 10:00 o'clock A. M. and recorded in Vol. 48 of RAILROAD MORTGAGES on pages 53 to 93, inc.
Thos. C. Duncan
Assistant Secretary of State

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CONDITIONAL SALE AGREEMENT

Between

AMERICAN LOCOMOTIVE COMPANY

and

GREAT NORTHERN RAILWAY COMPANY

Dated as of July 16, 1948

THIS AGREEMENT dated as of July 16, 1948, by and between AMERICAN LOCOMOTIVE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of New York, hereinafter sometimes called "Vendor" and sometimes called "American Locomotive," party of the first part, and GREAT NORTHERN RAILWAY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Minnesota, hereinafter called "Vendee," party of the second part,

WITNESSETH:

That in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. American Locomotive will construct, sell and deliver one (1) Diesel-Electric Locomotive as hereinafter described and sometimes called "equipment," and Vendee will accept and purchase said equipment on completion thereof, subject to the terms and conditions of this agreement. American Locomotive will deliver said equipment 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 American Locomotive in accordance with the provisions hereof. Said equipment shall be delivered, when completed, to Vendee f. o. b. the tracks of the Vendee at Fridley, Minnesota, freight charges prepaid, but Vendee shall assume all risk of loss or damage incident to transportation of the equipment from American Locomotive's plant at Schenectady, New York, to said point of delivery. American Locomotive estimates that said equipment will be completed and shipped in time for delivery to Vendee on or before September 1, 1948. The Vendor's obliga-

(Freight)

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tion with respect to delivery of the equipment hereunder is subject to delays and/or defaults in delivery caused by fires, accidents, explosions, labor troubles, acts of the government, including embargoes, priorities and allocations, war and war conditions, delays or defaults of the subcontractors or in the receipt of materials, transportation difficulties or other like or unlike causes beyond its reasonable control.

Said equipment shall be constructed in accordance with the Specifications referred to below and modifications thereof made from time to time at the request of the Vendee. A description of said equipment and the estimated purchase price thereof are as follows:

Number of Locomotives	*Description*	*Vendee's Serial Number*
1	6000 HP Diesel-Electric Freight Locomotive, consisting of two (2) A (lead) units, American Locomotive's Specifications DL-208-B, and two (2) B (booster) units, American Locomotive's Specifications DL-209-B, at an estimated purchase price of $611,460.00	440

The price stated above is based on present-day manufacturing costs. In the event of an increase in manufacturing costs, on account of increases in the cost of labor or material, or both, before manufacture of the locomotive, Vendor may notify Vendee in writing of the increased price for such locomotive and Vendee shall have the option in such case

of terminating this Agreement by notice in writing to Vendor within fifteen (15) days after receipt by Vendee of the aforesaid notice of price increase. Unless Vendee so notifies Vendor it shall be conclusively presumed that each increase is acceptable to Vendee. The price as thus increased shall become the price of such locomotive and Vendor shall be authorized to proceed with manufacture. The amount of any such increases shall be paid Vendor by Vendee upon delivery of the locomotive.

The purchase price above set forth includes freight at current rates; in the event of increase in rates as of date of shipment of the locomotive the increase shall be paid Vendor by Vendee and in case of a decrease the decrease shall be paid Vendee by Vendor upon invoice.

American Locomotive will give the Vendee full opportunity to inspect said equipment during the construction thereof at its plant. On completion of said equipment the Vendee will arrange for final inspection thereof and will have its inspector execute in quadruplicate the usual form of certificate of inspection covering said equipment if it is found to be completed in accordance with the plans and specifications. Such certificate shall be final and conclusive evidence that said equipment conforms 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 certificate of acceptance of said equipment by a duly authorized agent upon arrival thereof at the designated place of delivery.

2. The Vendee will pay the Vendor for said equipment, completed and delivered as aforesaid, at the office of the Vendor's treasurer at New York, New York, or at any bank

or trust company, either in the city of Chicago, Illinois, or elsewhere, which the Vendor in writing may direct, in the following manner:

(a) A sum equal to the excess of the purchase price of the equipment as finally determined over Four Hundred Eighty Thousand Dollars ($480,000), upon acceptance of delivery of the equipment by the Vendee and receipt by it of invoice therefor.

(b) The sum of Five Thousand Dollars ($5,000.00), on account of said purchase price, on the first day of the second calendar month following the date of acceptance of delivery of the equipment, together with interest at the annual rate determined as provided in Section 3 on the unpaid purchase price of the equipment from the date of acceptance of delivery of the equipment.

(c) The sum of Five Thousand Dollars ($5,000.00), on account of said purchase price, on the first day of the third calendar month following the date of acceptance of delivery of the equipment, and a like sum on the first day of each calendar month thereafter, 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 first day of the previous calendar month on the diminishing unpaid balance of said purchase price, at the annual rate determined as provided in Section 3, until the total purchase price, together with such interest, shall have been paid in full.

The term "interest" as used in this agreement means simple interest as distinguished from compound interest.

The Vendee shall have the right, on any monthly installment payment date, to make (a) payment of the entire balance of the purchase price of the equipment then unpaid

hereunder, with interest accrued to such date of payment, or (b) partial payment of such unpaid purchase price in the amount of $10,000, or any multiple thereof, and such partial payment, with suitable allowance for interest, will be credited by the Vendor toward payment in inverse order of latest installment payment or payments to be made by the Vendee hereunder.

All payments by the Vendee hereunder shall be free of expense to the Vendor for collection or other charges, and no deductions shall be made therefrom of the amount of any Federal, state or other taxes, assessments or governmental charges hereafter levied or imposed upon said equipment, 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 equipment 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 equipment 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 equipment 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 assign-

ment which shall appropriately describe the purchaser and shall have inserted therein the annual rate of interest, agreed upon between the purchaser and the Vendee, which the unpaid balance of the purchase price under paragraphs (b) and (c) of Section 2 hereof shall bear.

All or any of the rights of such purchaser under this agreement, including the right to receive the payments herein provided to be made by the Vendee under paragraphs (b) and (c) of Section 2, may be assigned by the purchaser and reassigned by any Assignee at any time and from time to time. Neither the original nor any subsequent assignment shall subject any Assignee to or relieve American Locomotive from any of the obligations of American Locomotive as to the construction or delivery of the equipment or as to any warranty, indemnity or obligation with respect thereto contained in Sections 1, 4 and 7 hereof, or relieve the Vendee from its obligation to American Locomotive under Section 4 and the last paragraph of Section 2 hereof, except that the Assignee shall be obligated to execute necessary and proper instruments of transfer as and when the Vendee shall be entitled thereto pursuant to the provisions of Section 6 hereof.

In the event of any such assignment the Assignor shall give written notice to Vendee, together with a counterpart or copy of such assignment, stating the identity and post office address of the Assignee, and such Assignee shall by virtue of such assignment acquire all of the Vendor's right, title and interest in and to the equipment described herein and each and every part thereof, subject only to such reservations as may be contained in such assignment. From and after the receipt by Vendee of the notification of any such assignment, all payments thereafter to be made by

Vendee hereunder shall, to the extent so assigned, be made to the Assignee.

Upon assignment of this agreement as hereinbefore provided, the rights of such Assignee to the entire unpaid purchase price or such part thereof as may be assigned, and interest thereon, as well as any other rights that may be so assigned hereunder, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of American Locomotive in respect of the manufacture or delivery of the equipment described herein or in respect of any warranty, indemnity or obligation in Sections 1, 4 and 7 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 American Locomotive. Any and all such obligations howsoever arising, shall be and remain enforceable by the Vendee against and only against American Locomotive and shall not be enforceable against any party or parties in whom title to the equipment 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, American Locomotive Company, 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 "American Locomotive" 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. American Locomotive shall defend any suit or proceeding brought against the Vendee so far as based on a claim that any apparatus, or any part thereof, furnished under this agreement constitutes an infringement of any patent of the United States, if notified promptly in writing and given authority, information and assistance (at the American Locomotive's expense) for the defense of same, and American Locomotive shall pay all damages and costs awarded therein against the Vendee. In case said apparatus, or any part thereof, is in such suit held to constitute infringement and the use of said apparatus or part is enjoined, American Locomotive shall, at its own expense, either procure for the Vendee the right to continue using said apparatus or part; or replace same with non-infringing apparatus; or modify it so it becomes non-infringing; or remove said apparatus and refund the purchase price and the transportation and installation costs thereof. The foregoing states the entire liability of American Locomotive for patent infringement by said apparatus or any part thereof. Such liability does not extend to appliances, devices or materials specified or required by the Vendee and not manufactured by the Vendor and with respect to such appliances, devices or materials the Vendee will indemnify and save harmless the Vendor from and against any and all royalties, damages, claims, suits, judgments and costs that may arise in the use thereof.

5. The Vendee shall pay promptly all taxes, assessments and governmental charges which from time to time may be imposed upon the equipment 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 equipment may be located, or which shall have jurisdiction over said equipment or any part thereof, and the Vendee agrees at all times to keep said equipment free and clear of all tax liens and incumbrances; the Vendee shall also pay or satisfy and discharge any and all sums claimed by any party and not owed by or the responsibility of the Vendor which, if unpaid, might become a lien or a charge upon the equipment, or any of it, superior to the title of the Vendor; provided, however, that the Vendee shall not be required to pay any tax, assessment or other Governmental or other charge, the validity of which the Vendee shall contest in good faith and by appropriate legal proceedings until such contest shall have been decided, unless in the judgment of the Vendor its rights and interests in said equipment 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 equipment may be operated, covering the use, operation or maintenance of said equipment, and with the lawful rules with respect to said equipment, of the Interstate Commerce Commission, and of every other legislative, administrative or judicial body exercising any power or jurisdiction over said equipment; and in the event that the said laws or rules require any alterations of said equipment, or any additional equipment or appliances thereon, the Vendee shall conform therewith at its own expense and

shall maintain said equipment 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 said equipment 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 equipment to and the possession and use thereof by the Vendee as herein provided. Any and all replacements of parts of said equipment or additional equipment or facilities installed thereon or therein shall constitute accessions to said equipment, 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 said equipment, with interest thereon, and all other payments herein provided to be made by the Vendee with respect thereto, title to and property in said equipment 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 equipment 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 said equipment in good order and proper running repair and in case of damage thereto by fire, accident or otherwise will promptly repair the equipment so damaged and restore it to good running order. In case such equipment shall be damaged beyond repair or lost or destroyed, the Vendee shall promptly replace

such equipment with other equipment 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 equipment 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). Within twenty (20) days after receiving advice of damage to or loss or destruction of said equipment, 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 such equipment with reasonable promptness or to pay for such equipment 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 equipment as herein provided.

The Vendee will keep the equipment insured until fully paid for, by a responsible insurance company, against damage by fire, derailment or collision and not resulting from war, up to an amount equal to eighty per cent (80%) of cost, less depreciation to be accrued at a rate not exceeding six per cent (6%) per year, excepting damage not exceeding two per cent (2%) of the amount of the insurance. The policies of such insurance shall be so written as to protect the interests of the Vendor and the Vendee and shall contain clauses making the insurance payable in case of loss as their interests may appear. All amounts payable under any such policy of insurance, in respect of such equipment, but not exceeding the unpaid balance of the purchase price of such

equipment, 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 shall correspondingly reduce future payments of principal in inverse order of maturity.

The Vendee will permit inspection of said equipment 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 equipment.

The Vendor will repair at its plant, Schenectady, New York, or will deliver to the Vendee F. O. B. its plant, Schenectady, New York, a new part to replace any part of the equipment that may fail under normal service either within one (1) year after the date of shipment of the equipment from the Vendor's plant, Schenectady, New York, or prior to the completion of the first 100,000 miles of service, whichever event shall occur first, because of faulty workmanship or defective material furnished by the Vendor, provided the Vendor is notified of the fault or defect when first discovered and is accorded an opportunity for verification. The Vendor shall be liable only for the replacement of such parts found defective and shall not be liable for transportation or installation charges, expense for repairs or replacements or for damages from delay or loss of use or for indirect or consequential damages of any kind. For such replacement the Vendor at its election may use improved designs or parts so replaced. This guaranty shall not apply to any property which shall have been repaired or altered outside of the Vendor's plant in any way so as in the Vendor's judgment to affect its strength, performance or reliability or due in

any part to misuse, negligence, accident or any cause other than normal or reasonable use. The Vendor does not guarantee the quality of materials or parts specified or furnished by the Vendee. The Vendor shall not be liable for any fault or defect except as herein provided.

8. Before delivery of said equipment to the Vendee, the Vendor will fasten upon each side thereof, a metal plate bearing the following words, or will mark upon each side of said equipment the following words, in letters not less than one inch in height: "American Locomotive Company, Owner." Such plates or markings will be so located as to be readily visible and to indicate plainly the Vendor's ownership of said equipment. 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 said equipment.

Said equipment may be lettered "Great Northern", "G. N.", or in some other appropriate manner, as the Vendee may desire, and may be numbered for convenience in identification; but the Vendee, during the continuance of this agreement, will not allow the name of any corporation or other party to be placed on said equipment, 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 equipment. Any change in the lettering or numbering of said equipment 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 equipment substituted for such of the equipment originally delivered as shall become damaged, lost or destroyed with precisely the same force and effect as if such substituted equipment was part of the equipment originally delivered; and the word "equipment" as used herein shall mean as well the substituted as the original equipment.

In the event of a transfer or assignment, or successive transfers or assignments by the Vendor or its assignees of title to said equipment 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 said equipment to indicate the title of such transferee or assignee to such equipment 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 said equipment 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 equipment 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 equipment, as herein provided, and shall remain in default for more than thirty (30) days after such payment shall have become due, or shall be in default under the provisions of Sections 11 and 12 hereof; or shall fail or refuse to comply with any other of the terms and covenants in this agreement on its part to be kept and performed, or to make provisions satisfactory to Vendor for such compliance, and any such failure or refusal, other than a default under Section 11 hereof, or a default in the payment of a monthly installment hereunder, shall continue for more than thirty (30) days after notice in writing thereof to the Vendee, then, in any such case (herein sometimes called events of default) and at any time thereafter during the continuance of such default the Vendor, without further notice or demand except to the extent necessary in order to comply with any legal requirements then in force and applicable to such action by the Vendor, may declare the entire unpaid balance of the purchase price of the equipment 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 equipment 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 equipment, 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 said equipment 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 deliver said equipment, 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 delivery of said equipment 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 equipment, 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, and without the necessity of producing 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 equipment 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 said equipment, 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 voluntary assignment or transfer of the Vendee's interest in and under this agreement or any involuntary transfer of such interest by Bankruptcy, or by the appointment of a receiver or trustee, or by execution or by any judicial or administrative decree or process, or otherwise (unless such petition shall be dismissed or such assignment, transfer, decree or process shall within thirty (30) days from the filing or other effective date thereof, be nullified, stayed or otherwise rendered ineffective, or unless any such receiver(s) or trustee(s) shall within thirty (30) days from the date of his or their appointment adopt this agreement pursuant to due authority of the court of his or their appointment) shall be deemed a breach of this agreement and a default hereunder; whereupon the Vendor may elect to declare the entire unpaid balance of the purchase price immediately due and payable as hereinbefore provided and may thereupon forthwith retake possession of said equipment 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 equipment without the Vendor's written consent first had and obtained, and shall not cause nor permit said equipment 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 equipment to pass out of the Vendee's control except in the ordinary course of interchange of equipment with connecting railway carriers.

13. Wherever provision is made in this agreement for any notice or demand to or upon the Vendee, or if at any time, the Vendor shall desire to give notice to or make any demand upon the Vendee, the same may be given or made by depositing a written statement thereof, enclosed in a postpaid envelope in any United States Post Office, directed to the Vendee respectively at its office or place of business in the City of St. Paul, Minnesota, and an affidavit by any person so depositing such notice in respect to 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 equipment and any replacement or replacements thereof, and of its rights under this agreement; and the Vendee shall from time to time do and perform any other act, and will execute, acknowledge, deliver, file, register and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of such protection of its title and rights, or for the purpose of carrying out the intention of this agreement. The Vendee shall pay also all cost, charges and expenses, except the counsel fees of the Vendor, incident to the printing, filing, registering and recording of this agreement and of any instrument supplemental hereto or amendatory hereof and of the assignment contemplated in the first paragraph of Section 3 hereof, but not of subsequent assignments.

17. This agreement may be simultaneously executed in one or more counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

18. No variation or modification of this agreement and no waiver of any of its provisions or conditions, shall be valid unless in writing and signed by duly authorized officers of the Vendee and the Vendor.

19. So long as the Vendee shall not be in default under this agreement it shall be entitled to the possession of said

equipment and shall have the full right of use thereof upon the lines of railroad owned, leased or operated by it, or over which it has trackage rights, and upon connecting and other railroads in the usual interchange of equipment, but subject at all times to all terms and conditions of this agreement. The Vendee at all times during the continuance of this agreement will keep the equipment in the States of Minnesota, Wisconsin, Iowa, North Dakota, South Dakota, Montana, Idaho, Washington, Oregon or California, or in the Dominion of Canada; provided, however, that the Vendee may with the written consent of the Vendor remove the equipment to another State on giving the Vendor five (5) days notice in writing stating where the equipment is to be transferred and the route to be followed in the transfer and upon registering and recording this agreement at the Vendee's expense in and upon full compliance with all laws of such other State or States through which the equipment may pass or to which it may be removed to the extent necessary for the protection of Vendor's title to the equipment and its rights under 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 equipment described herein is constructed.

IN WITNESS WHEREOF, the Vendor and the Vendee, respectively, each pursuant to due corporate authority, have caused these presents to be signed by their respective corporate names and their respective corporate seals to be hereunto

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

AMERICAN LOCOMOTIVE COMPANY

By .....
Vice President.

Attest:

.....
Asst. Secretary.

Signed, sealed and delivered in the presence of:

.....

.....

GREAT NORTHERN RAILWAY COMPANY

By .....
Vice President.

Attest:

.....
Secretary.

Signed, sealed and delivered in the presence of:

.....

.....

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

I, Hazel Wiser, 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 July, 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 American Locomotive Company, to the within and foregoing instrument, ~~W. E. Gyrrigan~~ E. Egbert and J. P. DeLaney, each to me personally known and known to me to be, respectively, a Vice President and an Assistant Secretary of American Locomotive 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 ~~W. E. Gyrrigan~~ E. 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 the said ~~W. E. Gyrrigan~~ E. Egbert resides in the ~~Borough~~ City of ~~Tenafly~~ Albany, State of ~~New Jersey~~ New York, and that the said J. P. DeLaney resides in the City of Schenectady, State of New York; that said ~~W. E. Gyrrigan~~ E. Egbert is a Vice President and said J. P. DeLaney is an Assistant Secretary of American Locomotive Company, one of the corporations described in and which executed the within and forego-

ing instrument in writing; that they, the said Vice President and Assistant Secretary, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Secretary in behalf of said corporation by like authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of Schenectady, State of New York, this the day and year in this my certificate first above written.

Hazel Wiser

HAZEL WISER
Notary Public State of New York
Residing in Schenectady County
My Commission expires March 30, 19..49

STATE OF MINNESOTA, } ss.
COUNTY OF RAMSEY. }

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 8th day of July, 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 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 } ss.
DEPARTMENT OF STATE }

Received this 26TH day of JULY A. D. 1948 at 10:00 o'clock A M. and recorded in Vol. 42 of RAILROAD MORTGAGES on pages 34748 INCL.

Assistant Secretary of State

ASSIGNMENT

of

CONDITIONAL SALE AGREEMENT

Between

AMERICAN LOCOMOTIVE COMPANY

and

GREAT NORTHERN RAILWAY COMPANY

To

BANK OF THE MANHATTAN COMPANY

AGREEMENT, dated as of July 16, 1948, between AMERICAN LOCOMOTIVE COMPANY, a corporation of the State of New York, hereinafter referred to as the "Manufacturer", party of the first part, and BANK OF THE MANHATTAN 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 16, 1948, covering the construction, sale and delivery of one (1) Diesel-Electric Locomotive, hereinafter sometimes referred to as "equipment", a description of said equipment and the estimated purchase price thereof being as follows:

Number of Locomotives	*Description*	*Railroad's Serial Number*
1	6000 HP Diesel-Electric Freight Locomotive, consisting of two (2) A (lead) units, Manufacturer's Specifications DL-208-B, and two (2) B (booster) units, Manufacturer's Specifications DL-209-B, at an estimated purchase price of $611-460.00	440

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 $480,000.00 payable by the Railroad to the Manufacturer on account of the purchase price of said equipment 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 equipment 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 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 the payment 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 equipment, or as to any warranty, indemnity or obligation with respect thereto contained in Sections 1, 4 and 7 of said Agreement, it being understood and agreed that, notwithstanding this assignment, all said obligations of the Manufacturer to the Railroad in respect of the said equipment shall be and remain 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 to the equipment described therein.

The Manufacturer represents and warrants to the Bank its successors and assigns, that said Agreement was lawfully executed for a valid consideration; that it is a valid and existing contract, and, according to its terms, binding upon the parties thereto, and that it 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 said equipment under the terms of said Agreement, the amount of $480,000.00, together with interest thereon, at the rate set out in Section 3 hereof, from the date of acceptance of delivery of said equipment to the date of payment by the Bank.

3. The Railroad agrees to pay interest at the rate of two percent (2%) per annum, at the times and under the conditions provided in paragraphs (b) and (c) of Section 2 of said Agreement. The term "interest" as used in this assignment means simple interest as distinguished from compound interest.

4. The Manufacturer covenants and agrees with the Bank that the Manufacturer is the lawful owner of the said equipment and rights under said Agreement sold, assigned, transferred and set over, or intended to be sold, assigned, transferred and set over, to the Bank by this assignment; that the same is free from all liens or encumbrances; that the Manufacturer has good and lawful right to sell the same as aforesaid, and that the Manufacturer will warrant and defend the same against the lawful demands of all persons whomsoever based on claims originating prior to the delivery of the said equipment by the Manufacturer; 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, set-off or counterclaim of the Railroad arising out of a breach by the Manufacturer, or any successor or successors to its manufacturing property and business, of any of the Manufacturer's obligations respecting said equipment under the terms and conditions of said Agreement, or arising by reason of any other indebtedness or liability at any time owing to the Railroad by the 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 shall defend any suit or proceeding brought against the Bank so far as based on a claim that any apparatus, or any part thereof, furnished under said Agreement constitutes an infringement of any patent of the United States, if notified promptly in writing and given authority, information and assistance (at the Manufacturer's expense) for the defense of same, and the Manufacturer shall pay all damages and costs awarded therein against the Bank. In case said apparatus, or any part thereof, is in such suit held to constitute infringement and the use of said apparatus or part is enjoined, the Manufacturer shall, at its own expense, either procure for the Bank the right to continue using said apparatus or part; or replace same with non-infringing apparatus; or modify it so it becomes non-infringing; or remove said apparatus and refund the purchase price and the

transportation and installation costs thereof. The foregoing states the entire liability of the Manufacturer for patent infringement by said apparatus or any part thereof.

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 cor-

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

AMERICAN LOCOMOTIVE COMPANY

By .....
Vice President

ATTEST:

.....
~~Assistant~~ Secretary

Signed, sealed and delivered
in the presence of:

.....

.....

BANK OF THE MANHATTAN COMPANY

By .....
Vice President

ATTEST:

.....
Assistant Secretary

Signed, sealed and delivered
in the presence of:

.....

.....

GREAT NORTHERN RAILWAY COMPANY

By ..... Vice President

ATTEST:

..... Secretary

Signed, sealed and delivered
in the presence of:

.....

.....

STATE OF NEW YORK,
COUNTY OF ~~SCHENECTADY~~ New York } ss.

I, ..Marion E. Rigney..... 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 fourth day of ~~July~~ August, 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 American Locomotive Company, to the within and foregoing instrument, P. T. ...Egbert..... and L. A. Sundberg....., each to me personally known and known to me to be, respectively, a Vice President and ~~an Assistant~~ the Secretary of American Locomotive 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 P. T. ...Egbert..... and L. A. Sundberg..., 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 P. T. ...Egbert..... resides in the ...City..... of ...Hackensack,, State of ...New York....., and that the said ..L. A. Sundberg.. resides in the ...City..... of ...Hackensack....., State of ...New Jersey..; that said P. T. Egbert..... is a Vice President and said ..L. A. Sundberg.. is ~~an Assistant~~ the Secretary of American Locomotive Company, one of the corporations described in and which executed the with-

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in and foregoing instrument in writing; that they, the said Vice President and ~~Assistant~~ Secretary, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and ~~Assistant~~ Secretary in behalf of said corporation by like authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of ~~New York~~, State of New York, this the day and year in this my certificate first above written.

Marion E. Rigney

MARION E. RIGNEY
Notary Public in the State of New York
Residing in Bronx County
Bronx Co. Clk. No. 141, Reg. No. 206-R-0
Certificate filed in N. Y. County
N. Y. Co. Clk. No. 898, Reg. No. 815-R-0
Commission Expires March 30, 1949

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

JOSEPH W. CARUSO

I, ... a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this sixth day of ..August..., 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 Bank of the Manhattan Company to the within and foregoing instrument, Robert W. McCulloch and Martin J. Palmer each to me personally known and known to me to be respectively Vice President and Assistant Secretary of the Bank of the Manhattan 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 Robert W. McCulloch and Martin J. Palmer. 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 Robert W. McCulloch resides in the .County..... of ...New York..., State of ...New York....,

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and that the said Mortimer J. Palmer resides in the County of Kings of Kings, State of New York; that said Robert M. McGrath is Vice President and said Mortimer J. Palmer is Assistant Secretary of the Bank of the Manhattan Company, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Vice President and Assistant Secretary know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of New York, State of New York, this the day and year in this my certificate first above written.

Joseph W. Caruso

JOSEPH W. CARUSO
NOTARY PUBLIC, State of New York
No. Residing in Kings County
Kings Co. Clk's No. 115, Reg. No. 82-C-0
Certificate Filed in
New York Co. Clk's No. 250, Reg. No. 107-C-0
Queens Co. Clk's No. 100, Reg. No. 45-C-0
Bronx Co. Clk's No. 5, Reg. No. 19-C-0
Westchester Co. Clk's No. 1942
Commission Expires March 30, 1950

STATE OF MINNESOTA, } ss.
COUNTY OF RAMSEY. }

I, Alpha M. Sarchet, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 27th day of July, 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 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.

Alpha M. Sarchet

ALPHA M. SARCHET,
Notary Public, Ramsey County, Minn.
My Commission Expires July 11, 1949.

State of Wisconsin } ss.
DEPARTMENT OF STATE }

Received this 16TH day of
AUGUST A. D. 1948 at 10:00
o'clock A.M. and recorded in Vol.
42 of RAILROAD MORTGAGES
on pages 49-56, incl.

Assistant Secretary of State

COUNTERPART
No. 5 OF 20

CONDITIONAL SALE AGREEMENT

BETWEEN

GENERAL MOTORS CORPORATION

(ELECTRO-MOTIVE DIVISION)

AND

GREAT NORTHERN RAILWAY COMPANY

DATED AS OF AUGUST 20, 1948

THIS AGREEMENT, made as of August 20, 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 GREAT NORTHERN RAILWAY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Minnesota, hereinafter called "Vendee", party of the second part,

WITNESSETH:

That in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. General Motors will construct, sell and deliver four (4) Diesel locomotives as hereinafter described and collectively sometimes called "locomotives" and Vendee will accept and purchase said locomotives on completion thereof, subject to the terms and conditions of this agreement. General Motors will deliver said locomotives ready for service and free of all liens, encumbrances and claims of any nature by or in favor of any other person or party and subject only to the reservation of title thereto by General Motors in accordance with the provisions hereof. Said locomotives shall be delivered, from time to time as completed, to Vendee f. o. b. the tracks of the Vendee at Fridley, Minnesota, freight charges prepaid, but Vendee shall assume all risk of loss or damage incident to transportation of the locomotives from General Motors' plant at McCook, Illinois, to said point of delivery.

Said locomotives shall be constructed in accordance with specifications prepared by General Motors and modifications thereof mutually agreed upon from time to time. A descrip-

tion and number of locomotives and the estimated price per locomotive are as follows:

Number of Locomotives	Description	Vendee's Serial Numbers
4	6000-Horsepower Diesel-electric freight locomotives, being four of the five locomotives covered by Vendee's Purchase Order No. 53978 and General Motors' Order No. E-836, each locomotive to consist of two (2) lead units and two (2) booster units as more particularly described and warranted in General Motors' Specifications 8002-A and 8003-A dated June 2 and 3, 1947, and Supplements Nos. 1, 2 and 3 dated, respectively, August 8, 1947, April 5, 1948, and April 27, 1948, to be delivered prior to September 30, 1948, at an estimated price per locomotive of $606,147.00	430, 432, 434 and 436

The total estimated price of all locomotives covered by this agreement is the sum of $2,424,588.00.

General Motors will give the Vendee full opportunity to inspect said locomotives during the construction thereof at its plant. On completion of each locomotive the Vendee will arrange for final inspection thereof and will have its inspector execute in quadruplicate the usual form of certificate of inspection covering all locomotives found to be completed in accordance with the plans and specifications. Each such certificate with respect to the locomotives covered thereby shall be final and conclusive evidence that such locomotives

conform in workmanship, material and construction, and in all other respects, to the requirements and provisions of this agreement. The Vendee will arrange also for execution of certificates of acceptance of said locomotives by a duly authorized agent upon arrival thereof at the designated place of delivery.

2. The Vendee will pay the Vendor for said locomotives, completed and delivered as aforesaid, at the office of the Vendor's treasurer at Chicago, Illinois, or at any bank or trust company, either in the cities of Chicago or New York or elsewhere, which the Vendor in writing may direct, in the following manner:

(a) Upon delivery and acceptance of each locomotive and receipt of invoice therefor, an amount equal to the excess of the purchase price thereof, as finally determined, over the amount of $480,000.00.

(b) The remaining $1,920,000.00 of the total purchase price in ninety-six (96) equal monthly installments of $20,000.00 each, except as may otherwise be provided herein, on the first day of each month commencing October 1, 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 first day of the previous calendar month on the diminishing unpaid balances of said sum of $1,920,000.00, at the annual rate to be determined as provided in Section 3 hereof, until said sum of $1,920,000.00, together with such interest, shall have been paid in full.

The term "Interest" as used in this agreement means simple interest as distinguished from compound interest.

The Vendee shall have the right, on any monthly instalment payment date, to make (a) payment of the entire balance of the purchase price of the equipment then unpaid hereunder, with interest accrued to such date of payment, or (b) partial payment of such unpaid purchase price in the amount of $10,000, or any multiple thereof, and such partial payment, with suitable allowance for interest, will be credited by the Vendor toward payment in inverse order of latest instalment payment or payments to be made by the Vendee hereunder.

All payments by the Vendee hereunder shall be free of expense to the Vendor for collection or other charge, 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.

virtue of such assignment acquire all of the Vendor's right, title and interest in and to the locomotives described herein and each and every part thereof, subject only to such reservations as may be contained in such assignment. From and after the receipt by Vendee of the notification of any such assignment, all payments thereafter to be made by Vendee hereunder shall, to the extent so assigned, be made to the Assignee.

Upon assignment of this agreement as hereinbefore provided, the rights of such Assignee to the entire unpaid purchase price or such part thereof as may be assigned, and interest thereon, as well as any other rights that may be so assigned hereunder, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of General Motors in respect of the manufacture or delivery of the locomotives described herein or in respect of any warranty or indemnity in Sections 1 and 4 hereof, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee by General Motors. Any and all such obligations however 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 General Motors 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 govern-

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, together with a counterpart or copy of such assignment, stating the identity and post office address of the Assignee, and such Assignee shall by

ment of any country, state or political subdivision thereof, in which said locomotives may be located, or which shall have jurisdiction over said locomotives or any part thereof, and the Vendee agrees at all times to keep said locomotives free and clear of all tax liens and incumbrances; provided, however, that the Vendee shall not be required to pay any tax, assessment or other Governmental charge, the validity of which the Vendee shall contest in good faith and by appropriate legal proceedings until such contest shall have been decided, unless in the judgment of the Vendor its rights and interests in said locomotives may be materially endangered by such delay.

The Vendee shall comply in all respects with all laws of the United States and of the states, and countries in or through which the said locomotives may be operated, covering the use, operation or maintenance of said locomotives, and with the lawful rules with respect to said locomotives, of the Interstate Commerce Commission, and of every other legislative, administrative or judicial body exercising any power or jurisdiction over said locomotives; and in the event that the said laws or rules require any alterations of any of said locomotives, or any additional equipment or appliances thereon, the Vendee shall contform 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

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 hereinprovided.

The Vendee will keep each locomotive insured until fully paid for, by a responsible insurance company, against damage by fire, derailment or collision and not resulting from war, up to an amount equal to eighty per cent (80%) of cost, less depreciation to be accrued at a rate not exceeding six per cent (6%) per year, excepting damage not exceeding two per cent (2%) of the amount of the insurance. 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.

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 will 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)

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 marking 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 marking 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 marking shall be required to protect the interests of the Vendor, the Vendee shall provide and install and thereafter maintain the same on all of such locomotives.

Said locomotives may be lettered "Great Northern", "G. N." or in some other appropriate manner, as the Vendee may desire, and may be numbered for convenience in identification; but the Vendee, during the continuance of the 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 and 12 hereof; or shall fail or refuse to comply with any other of the terms and covenants in this agreement on its part to be kept and performed, or to make provisions satisfactory to Vendor for such compliance, and any such failure or refusal, other than a default under Section 11 hereof, or a default in the payment of a monthly installment hereunder, shall continue for more than thirty (30) days after notice in writing thereof to the Vendee, then, in any such case (herein sometimes called events of default) and at any time thereafter during the continuance of such default the Vendor, without further notice or demand except to the extent necessary in order to comply with any legal requirements then in force and applicable to such action by the Vendor, may declare the entire unpaid balance of the purchase price of the locomotives immediately due and payable, without further demand, together with interest thereon at the annual rate referred to in Section 3 to such date of default; and thereafter interest shall be payable by the Vendee upon any portion thereof overdue during such time as it shall remain overdue at the rate of five per cent (5%)

per annum. The Vendor shall thereupon be entitled to recover judgment for the entire amount so payable by the Vendee with interest thereon at said rate, and to collect such judgment out of any property of the Vendee wherever situated. The Vendor may at its election (and if before sale of said locomotives as in paragraph (c) hereof provided, the Vendee shall have paid to the Vendor all costs and expenses of the Vendor incidental to any such default, and all sums which shall then have become due and payable by the Vendee hereunder, other than that part of said purchase price as shall have become due solely because of the declaration of the Vendor under this paragraph, and shall have remedied all other existing events of default or made provision therefor satisfactory to the Vendor, the Vendor shall) waive any such event of default and its consequences and rescind and annul any such declaration or termination by giving notice to the Vendee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such default had occurred or existed and no such declaration nor termination had been made; but no such waiver, rescision 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 acces-

11. The filing by the Vendee or by creditors of the Vendee of any petition for reorganization or debt adjustment affecting the obligations of the Vendee under this agreement, under Section 77 of the Bankruptcy Act, or under any amendment or revision thereof, or under any other provision of the Bankruptcy Act as now or hereafter existing, or any voluntary assignment or transfer of the Vendee's interest in and under this agreement or any involuntary transfer of such interest by bankruptcy, or by the appointment of a receiver or trustee, or by execution or by any judicial or administrative decree or process, or otherwise (unless such petition shall be dismissed or such assignment, transfer, decree or process shall within thirty (30) days from the filing or other effective date thereof, be nullified, stayed or otherwise rendered ineffective, or unless any such receiver(s) or trustee(s) shall within thirty (30) days from the date of his or their appointment adopt this agreement pursuant to due authority of the court of his or their appointment) shall be deemed a breach of this agreement and a default hereunder; whereupon the Vendor may elect to declare the entire unpaid balance of the purchase price immediately due and payable as hereinbefore provided and may thereupon forthwith retake possession of said locomotives or any thereof and exercise and enforce any and all other remedies as provided by Section 10 hereof.

12. The Vendee shall not assign nor transfer this agreement or any of its rights hereunder, nor transfer nor sublet the said locomotives or any thereof without the Vendor's written consent first had and obtained, and shall not cause nor permit any of said locomotives to be pledged or held for any debt or obligation owing by the Vendee or to be in any manner encumbered, and shall not suffer the said locomotives

or any thereof to pass out of the Vendee's control except in the ordinary course of interchange of equipment with connecting railway carriers.

13. Wherever provision is made in this agreement for any notice or demand to or upon the Vendee, or if at any time, the Vendor shall desire to give notice to or make any demand upon the Vendee, the same may be given or made by depositing a written statement thereof, enclosed in a postpaid envelope in any United States Post Office, directed to the Vendee respectively at its office or place of business in the City of St. Paul, Minnesota, and an affidavit by any person so depositing such notice in respect of such mailing shall be deemed to be and shall be conclusive evidence of the giving and receipt of such notice and of the mailing 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 construed 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.

sorios 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 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.

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 one or more counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

18. No variation or modification of this agreement and no waiver of any of its provisions or conditions, shall be valid unless in writing and signed by duly authorised officers of the Vendee and the Vendor.

19. So long as the Vendee shall not be in default under this agreement it shall be entitled to the possession of said locomotives and shall have the full right of use thereof upon the lines of railroad owned, leased or operated by it, or over which it has trackage rights, and upon connecting and other railroads in the usual interchange of equipment, but subject at all times to all terms and conditions of this agreement.

20. The terms of this agreement and all the rights and obligations hereunder shall be governed by the laws of the State in which the locomotives described herein are constructed.

IN WITNESS WHEREOF, the Vendor and the Vendee, respectively, each pursuant to due corporate authority, have caused these presents to be signed by their respective corporate names and their respective corporate seals to be here-

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

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

By ..... Vice President.

Attest: ..... Asst. Treasurer.

Signed, sealed and delivered in the presence of:

.....

.....

GREAT NORTHERN RAILWAY COMPANY

By ..... Vice President.

Attest: ..... Secretary.

Signed, sealed and delivered in the presence of:

.....

.....

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

I, James Sorna, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn, and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 23rd day of August, 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 Corporations (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 Mo-

tors 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 Borna

My Commission Expires
January 12, 1950

STATE OF MINNESOTA, }
COUNTY OF RAMSEY. } ss.

I, Howard V. Rhedin, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 14th day of August, 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 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 } ss.
DEPARTMENT OF STATE

Received this 26th day of AUGUST A. D. 1948 at 12:20 o'clock P.M. and recorded in Vol. 42 of RAILROAD MORTGAGES on pages 57-70 INCL.

Theodore Dammann
Secretary of State

COUNTERPART
No. 5 of 20

ASSIGNMENT

of

CONDITIONAL SALE AGREEMENT

Between

GENERAL MOTORS CORPORATION

(ELECTRO-MOTIVE DIVISION)

and

GREAT NORTHERN RAILWAY COMPANY

To

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK

AGREEMENT, dated as of September 7, 194[illegible], 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 THE CITY OF NEW YORK, a National banking institution 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 August [illegible], 194[illegible], covering the construction, sale and delivery of four (4) Diesel locomotives, hereinafter sometimes referred to as "locomotives", a description and number of locomotives and the estimated price per locomotive being as follows:

> Four (4) new 6000-horsepower Diesel Freight Locomotives, each consisting of two lead units and two booster units, bearing the Railroad's numbers [illegible], [illegible], [illegible] and [illegible], respectively, at a total estimated price of $[illegible];

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 $[illegible] 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 [illegible] 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 Section [illegible] [illegible]

2. [illegible] provisions of Section [illegible] of said Agreement.

3. In consideration of the aforementioned assignment, and the agreement of the Railroad set out in Section [illegible] 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 $[illegible].

The amounts to be so paid by the Bank to the Manufacturer will aggregate $[illegible].

3. The Railroad agrees to pay to the Bank interest at the rate of two and one-half percent (2½%) per annum, at the times and under the conditions provided in paragraph (b) of Section 2 of said Agreement from the first day of September, 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 [illegible] the delivery of the said locomotives [illegible] subject, however, to the provisions of the [illegible] Agreement and the rights of the Railroad thereunder.

5. [illegible] the Bank from and against any and all liability, damages, claims, suits, judgments and costs that may arise from the use of any patented article, except with regard to any appliance, 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
([illegible] Division)

By [signature]
Vice President.

ATTEST:

[signature]
Assistant Treasurer.

Signed, sealed and delivered
in the presence of:

[signature]

[signature]
Witnesses.

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK

By [signature]
Vice President.

ATTEST:

[signature]
Assistant Cashier.

Signed, sealed and delivered
in the presence of:

[signature]

[signature]
Witnesses.

GREAT NORTHERN RAILWAY COMPANY

By *Edwin C. Matthias* ....
Vice President.

ATTEST:

C. A. Biegah ....
Assistant Secretary.

Signed, sealed and delivered
in the presence of:

L. F. Calow ....

F. Lepping ....
Witnesses.

GREAT NORTHERN RAILWAY COMPANY CORPORATE SEAL

State of Illinois, }
County of Cook. } ss.

I, James Borna, a Notary Public in and for the State and County aforesaid, [illegible] do hereby certify that on this 3rd day of [illegible], A. D. 194[illegible], personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as witnesses 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 Mo-

tors 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 Borna
My Commission Expires
January 12, 1950

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

I, WILLIAM F. LOVELAND, a Notary Public in and for the State and County aforesaid, [illegible] do hereby certify that on this 4th day of [illegible], personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to The First National Bank of the City of New York to the within and foregoing instrument, ROBERT G. FULLER ... and ... V. E. GERDES .... each to me personally known and known to me to be respectively Vice President and Assistant Cashier of The First National Bank of the City of New York, 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 ROBERT G. FULLER ... and ... V. E. GERDES .... being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said ROBERT G. FULLER, resides in the *Village of Scarsdale* .... State of *New York*..., and that the said V. E. GERDES .... resides in *the city of New York*..., State of *New York*...; that said ROBERT G. FULLER... is Vice President and said V. E. GERDES... is Assistant Cashier

Vice President and Assistant Secretary know the corporate seal of said corporation; that the seal affixed to said instrument 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.

Alma M. Gantert

ALPHA M. GANGERT,
Notary Public, Ramsey County, Minn.
My Commission Expires July 11, 1949.

State of Wisconsin } ss.
DEPARTMENT OF STATE

Received this 14th day of
September A. D. 19 48 at 9:00
o'clock A.M. and recorded in Vol.
42 of Rainbow Meetings on
on page 81-78 inc.
Phil G. Lindemann
Secretary of State

of the First National Bank of the City of New York one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Vice President and Assistant Cashier know the corporate seal of said corporation; that the said affixed to said instrument is the said seal of said corporation; that the 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, 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 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 the said County of New York, State of New York, this the day and year in this my certificate first above written.

William T. Lovelace

WILLIAM T. LOVELACE
NOTARY PUBLIC in THE STATE OF NEW YORK
N. Y. CO. CLERK'S No. 124, REG. No. 3L-4
COMMISSION EXPIRES MARCH 30, 1949

TREASURY DEPARTMENT

COUNTERPART
No. 5 OF 20

CONDITIONAL SALE AGREEMENT

BETWEEN

GENERAL MOTORS CORPORATION

(ELECTRO-MOTIVE DIVISION)

AND

GREAT NORTHERN RAILWAY COMPANY

DATED AS OF SEPTEMBER 1, 1948

THIS AGREEMENT, made as of September 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 GREAT NORTHERN RAILWAY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Minnesota, hereinafter called "Vendee", party of the second part,

WITNESSETH:

That in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. General Motors will construct, sell and deliver eight (8) Diesel locomotives as hereinafter described and collectively sometimes called "locomotives" and Vendee will accept and purchase said locomotives on completion thereof, subject to the terms and conditions of this agreement. General Motors will deliver said locomotives ready for service and free of all liens, encumbrances and claims of any nature by or in favor of any other person or party and subject only to the reservation of title thereto by General Motors in accordance with the provisions hereof. Said locomotives shall be delivered, from time to time as completed, beginning about the middle of October, 1948, to Vendee f. o. b. the tracks of the Vendee at Fridley, Minnesota, freight charges prepaid, but Vendee shall assume all risk of loss or damage incident to transportation of the locomotives from General Motors' plant at McCook, Illinois, to said point of delivery.

Said locomotives shall be constructed in accordance with

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specifications prepared by General Motors and modifications thereof mutually agreed upon from time to time. A description and number of locomotives and the estimated price per locomotive are as follows:

Number of Locomotives	Description	Vendee's Serial Numbers
1	6000 Horsepower Diesel-electric freight locomotive, being one of the five locomotives covered by Vendee's Purchase Order No. 53978 and General Motors' Order No. E-836, said locomotive to consist of two (2) 1500-horsepower lead units and two (2) 1500-horsepower booster units as more particularly described and warranted in General Motors' Specifications 8002-A and 8003-A dated June 2 and 3, 1947, and Supplements Nos. 1, 2 and 3 dated, respectively, August 8, 1947, April 5, 1948, and April 27, 1948, at an estimated price of $606,147	438
1	4500-Horsepower Diesel-electric freight locomotive, covered by Vendee's purchase Order No. 53979 and General Motors' Order No. E-1099, said locomotive to consist of two (2) 1500-horse-power lead units and one (1) 1500-horsepower booster unit, as more particularly described and warranted in General Motors' Specifications 8002-A and 8003-A dated June 2 and 3, 1947, and Supplement No. 1 dated April 14, 1948, at an estimated price of $461,411	306
2	3000-Horsepower Diesel-electric freight locomotives, covered by Vendee's Purchase Order No. 53980 and General Motors' Order No. E-1100, each locomotive to consist of two (2) 1500-horsepower lead units, as more particularly described and warranted in General Motors' Specifications 8002-A dated June 2, 1947, and Supplement No. 1 dated May 11, 1948, at an estimated price of $301,332 for locomotive Vendee's Serial No. 264, and $317,368 for locomotive Vendee's Serial No. 265, equipped with dynamic brakes	264 and 265
2	3000-Horsepower Diesel-electric passenger locomotives, covered by Vendee's Purchase Order No. 53981 and General Motor's Order No. E-1101, each locomotive to consist of one (1) 1500-horsepower lead unit and one (1) 1500-horsepower booster unit, as more particularly described and warranted in General Motor's Specifications 8002-A and 8003-A dated June 2 and 3, 1947, and Supplement No. 1 dated April 15, 1948, at an estimated price per locomotive of $317,852	266 and 267

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2	1500-Horsepower Diesel-electric passenger locomotives, covered by Vendee's Purchase Order No. 53982 and General Motors' Order No. E-1102, as more particularly described and warranted in General Motors' Specifications 8002-A dated June 2, 1947, and Supplement No. 1 dated May 12, 1948, at an estimated price per locomotive of $163,419	375-C and 376-C

The total estimated price of all locomotives covered by this agreement is the sum of $2,648,800.

General Motors will give the Vendee full opportunity to inspect said locomotives during the construction thereof at its plant. On completion of each locomotive the Vendee will arrange for final inspection thereof and will have its inspector execute in quadruplicate the usual form of certificate of inspection covering all locomotives found to be completed in accordance with the plans and specifications. Each such certificate with respect to the locomotives covered thereby shall be final and conclusive evidence that such locomotives conform in workmanship, material and construction, and in all other respects, to the requirements and provisions of this agreement. The Vendee will arrange also for execution of certificates of acceptance of said locomotives by a duly authorized agent upon arrival thereof at the designated place of delivery.

2. The Vendee will pay the Vendor for said locomotives, completed and delivered as aforesaid, at the office of the Vendor's treasurer at Chicago, Illinois, or at any bank or

trust company, either in the cities of Chicago or New York or elsewhere which the Vendor in writing may direct, in the following manner:

(a) Upon delivery and acceptance of each locomotive and receipt of invoice therefor, an amount equal to the excess of the purchase price thereof, as finally determined, over the amount shown below for each such locomotive:

6000-horsepower Diesel-Electric Freight Locomotive	$484,000
4500-horsepower Diesel-Electric Freight Locomotive	368,000
3000-horsepower Diesel-Electric Freight Locomotives, each	247,000
3000-horsepower Diesel-Electric Passenger Locomotives, each	253,000
1500-horsepower Diesel-Electric Passenger Locomotives, each	120,000

(b) The remaining $2,112,000 of the total purchase price in ninety-six (96) equal monthly installments of $22,000 each, except as may otherwise be provided herein, on the first day of each month commencing November 1, 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 first day of the previous calendar month on the diminishing unpaid balances of said sum of $2,112,000, at the annual rate to be determined as provided in Section 3 hereof, until said sum of $2,112,000, 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.

The Vendee shall have the right, on any monthly installment payment date, to make (a) payment of the entire balance of the purchase price of the equipment then unpaid hereunder, with interest accrued to such date of payment, or (b) partial payment of such unpaid purchase price in the amount of $10,000, or any multiple thereof, and such partial payment, with suitable allowance for interest, will be credited by the Vendor toward payment in inverse order of latest installment payment or payments to be made by the Vendee hereunder.

All payments by the Vendee hereunder shall be free of expense to the Vendor for collection or other charges, and no deductions shall be made therefrom of the amount of any Federal, State or other taxes, assessments or governmental charges hereafter levied or imposed upon said locomotives, or upon the selling, shipment, delivery, or use thereof, and the Vendee hereby specifically agrees to pay to the Vendor, in addition to the above mentioned purchase price of the locomotives, all sales taxes, or like taxes or charges which may be assessed, levied or imposed upon or with respect to the sale or delivery to or use by the Vendee of said locomotives, or any thereof, and which the Vendor may be legally required to pay to any State or municipality or to the United States or other government. All payments provided for in this agreement shall be made by the Vendee to the Vendor in such currency of the United States of America as at the time of payment shall be legal tender for payment of public and private debts.

3. With reasonable promptness after the execution of this agreement, the Vendee will procure a purchaser of the interest of the Vendor in this agreement and of the locomotives described herein in accordance with the terms of an assignment in the form marked "Exhibit 1" attached hereto, and hereby made a part hereof. Upon the request of such purchaser the Vendor will forthwith execute said assignment which shall appropriately describe the purchaser and shall have inserted therein the annual rate of interest, agreed upon between the purchaser and the Vendee, which the unpaid balance of the purchase price under 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, together with a counterpart or copy of such assignment, stating the identity and post office address of the Assignee, and such Assignee shall by

ment of any country, state or political subdivision thereof, in which said locomotives may be located, or which shall have jurisdiction over said locomotives or any part thereof, and the Vendee agrees at all times to keep said locomotives free and clear of all tax liens and incumbrances; provided, however, that the Vendee shall not be required to pay any tax, assessment or other Governmental charge, the validity of which the Vendee shall contest in good faith and by appropriate legal proceedings until such contest shall have been decided, unless in the judgment of the Vendor its rights and interests in said locomotives may be materially endangered by such delay.

The Vendee shall comply in all respects with all laws of the United States and of the states, and counties in or through which the said locomotives may be operated, covering the use, operation or maintenance of said locomotives, and with 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

virtue of such assignment acquire all of the Vendor's right, title and interest in and to the locomotives described herein and each and every part thereof, subject only to such reservations as may be contained in such assignment. From and after the receipt by Vendee of the notification of any such assignment, all payments thereafter to be made by Vendee hereunder shall, to the extent so assigned, be made to the Assignee.

Upon assignment of this agreement as hereinbefore provided, the rights of such Assignee to the entire unpaid purchase price or such part thereof as may be assigned, and interest thereon, as well as any other rights that may be so assigned hereunder, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of General Motors in respect of the manufacture or delivery of the locomotives described herein or in respect of any warranty or indemnity in Sections 1 and 4 hereof, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee by General Motors. Any and all such obligations howsoever arising, shall be and remain enforceable by the Vendee against and only against General Motors and shall not be enforceable against any party or parties in whom title to the locomotives or any thereof, or the rights of Vendor hereunder, shall vest by reason of any sale, assignment or transfer, or successive sales, assignments or transfers.

The term "Vendor" whenever used in this agreement means, before any assignment of the rights of the Vendor hereunder as hereinbefore provided in this Section 3, 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 any rights hereunder retained and excluded from such assignment; and the term "General Motors" whenever used in this agreement means, both before and after any such assignment, the party hereto of the first part, and any successor or successors for the time being to its manufacturing property and business.

4. General Motors agrees to indemnify and save the Vendee harmless from any and all liabilities, damages, claims, suits, judgments and costs that may arise from the use of any patented article, other than those specified or required by the Vendee and that are not manufactured by General Motors, that may be a part of the locomotives when delivered, and the Vendee agrees to indemnify and save General Motors harmless from any and all liabilities, damages, claims, suits, judgments and costs that may arise from the use of any patented article specified or required by the Vendee and not manufactured by General Motors that may be used as a part of the locomotives.

Immediate notice in writing shall be given by either party to the other of any claim of patent infringement presented to such party with respect to the locomotives, and the party responsible for such infringement as above provided, shall promptly undertake and assume the defense thereof.

5. The Vendee shall pay promptly all taxes, assessments and governmental charges which from time to time may be imposed upon the locomotives described herein, or the earnings arising therefrom, or the operation thereof, or upon the Vendor by reason of its ownership thereof, by any govern-

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 thereto 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 will 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 will keep each locomotive insured until fully paid for, by a responsible insurance company, against damage by fire, derailment or collision and not resulting from war, up to an amount equal to eighty per cent (80%) of cost, less depreciation to be accrued at a rate not exceeding six per cent (6%) per year, excepting damage not exceeding two per cent (2%) of the amount of the insurance. 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 "Great Northern", "G. N." or in some other appropriate manner, as the Vendee may desire, and may be numbered for convenience in identification; but the Vendee, during the continuance of this agreement, will not allow the name of any corporation or other party to be placed on any of said locomotives, in such manner that such name or designation might be interpreted as a claim of ownership thereof by any person, association or corporation other than the Vendor or its assignee. The Vendee shall not, without the Vendor's written consent, alter

or obliterate the lettering or numbering (as hereinabove specified) of said locomotives or any thereof. Any change in the lettering or numbering of any of said locomotives requested by the Vendee and assented to by the Vendor shall be evidenced by agreement in form satisfactory to the Vendor executed in one or more counterparts as it may request and filed and/or recorded in such office or offices as the Vendor shall direct.

All the provisions of this agreement shall apply with respect to locomotives substituted for such of the locomotives originally delivered as shall become damaged, lost or destroyed with precisely the same force and effect, as if such substituted locomotive was part of the locomotives originally delivered; and the word "locomotives" as used herein shall mean as well the substituted as the original locomotives.

In the event of a transfer or assignment, or successive transfers or assignments by the Vendor or its assignees of title to said locomotives and of the Vendor's rights hereunder in 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 Sections 11 or 12 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 acces-

sories placed thereon, free from any and all claims of the Vendee, or of any other party claiming by, through or under it at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine, all subject to and in compliance with any legal requirements then in force and applicable to such sale. To the extent permitted by any such legal requirements, any sale or sales hereunder may be held or conducted at such location and at such time or times as the Vendor may fix, in one lot and as an entirety or in separate lots, and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine in compliance with any such legal requirements, provided that written notice of such sale shall be given to the Vendee at least ten (10) days prior thereto, by telegram or registered mail addressed to the Vendee at its office in St. Paul, Minnesota, or such other notice, if any, as may be necessary to comply with any such legal requirements. If such sale shall be a private sale permitted by such legal requirements, it shall be subject to the right of the Vendee to purchase or provide a purchaser, within ten (10) days after notice of the proposed sale price, at the same or better price as offered by the intending purchaser. To the extent not prohibited by any legal requirements then in force and applicable to such sale, the Vendor may itself bid for and become the purchaser of said locomotives, or any thereof so offered for sale without accountability to the Vendee (except to the extent of surplus money received as hereinafter provided in paragraph (e) of this Section 10) and in payment of such purchase price the Vendor shall be entitled to the extent aforesaid to have credited on account thereof all sums due to the Vendor from the Vendee hereunder.

(d) Each and every power or remedy hereby specifically given to the Vendor shall be in addition to every other power or remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy, and no renewal or extension of any payments due hereunder, shall impair any such power or remedy, or shall be construed to be a waiver of any default, or an acquiescence therein.

(e) If the Vendor shall exercise any of the powers or remedies conferred upon it hereunder, the Vendee shall have the right after all sums due hereunder to the Vendor shall have been received by it in full, including its proper costs and expenses incident to the collection thereof, to require title to any of said locomotives, if not previously sold or otherwise disposed of by the Vendor pursuant to the provisions hereof, to be transferred and assigned by the Vendor to the Vendee free from any further liabilities or obligations to the Vendor. If after applying all sums of money realised by the Vendor under the remedies herein provided, there shall remain any amount due it under the provisions of this agreement, the Vendee shall pay the amount of such deficit to the Vendor. If after applying as aforesaid all sums realised by the Vendor there shall remain a surplus in the possession of the Vendor such surplus shall be paid to the Vendee.

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 replacement thereof, and of its rights under this agreement; and the Vendee shall from time to time do and perform any other act, and will execute, acknowledge, deliver, file, register and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of such protection of its title and rights, or for the purpose of carrying out the intention of this agreement. The Vendee shall pay also all cost, charges and expenses, except the counsel fees of the Vendor, incident to the printing, filing, registering and recording of this agreement and of any instrument supplemental hereto or amendatory hereof and of the assignment contemplated in the first paragraph of Section 3 hereof, but not of subsequent assignments.

17. This agreement may be simultaneously executed in one or more counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

11. The filing by the Vendee or by creditors of the Vendee of any petition for reorganization or debt adjustment affecting the obligations of the Vendee under this agreement, under Section 77 of the Bankruptcy Act, or under any amendment or revision thereof, or under any other provision of the Bankruptcy Act as now or hereafter existing, or any voluntary assignment or transfer of the Vendee's interest in and under this agreement or any involuntary transfer of such interest by bankruptcy, or by the appointment of a receiver or trustee, or by execution or by any judicial or administrative decree or proceeding, or otherwise (unless such petition shall be dismissed or such assignment, transfer, decree or proceeding 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 locomotive to be pledged or held for any debt or obligation owing by the Vendee or to be in any manner encumbered, and shall not suffer the said locomotives

or any thereof to pass out of the Vendee's control except in the ordinary course of interchange of equipment with connecting railway carriers.

13. Wherever provision is made in this agreement for any notice or demand to or upon the Vendee, or if at any time, the Vendor shall desire to give notice to or make any demand upon the Vendee, the same may be given or made by depositing a written statement thereof, enclosed in a postpaid envelope in any United States Post Office, directed to the Vendee respectively at its office or place of business in the City of St. Paul, Minnesota, and an affidavit by any person so depositing such notice in respect of such mailing shall be deemed to be and shall be conclusive evidence of the giving and receipt of such notice and of the mailing 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.

18. No variation or modification of this agreement, and no waiver of any of its provisions or conditions, shall be valid unless in writing and signed by duly authorized officers of the Vendee and the Vendor.

19. So long as the Vendee shall not be in default under this agreement it shall be entitled to the possession of said locomotives and shall have the full right of use thereof upon the lines of railroad owned, leased or operated by it, or over which it has trackage rights and upon connecting and other railroads in the usual interchange of equipment, but subject at all times to all terms and conditions of this agreement.

20. The terms of this agreement and all the rights and obligations hereunder shall be governed by the laws of the State in which the locomotives described herein are constructed.

IN WITNESS WHEREOF, the Vendor and the Vendee, respectively, each pursuant to due corporate authority, have caused these presents to be signed by their respective corporate seals to be hereunto affixed and their respective corporate names and their

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

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

By .....
Vice President.

Attest:
.....,
Asst. Treasurer.

Signed, sealed and delivered in the presence of:

.....

.....

GREAT NORTHERN RAILWAY COMPANY

By .....
Vice President.

Attest:
.....
Secretary.

Signed, sealed and delivered in the presence of:

.....

.....

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

I, James Borna, 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 September, 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 Corporations (Electro-Motive Division) to the within and foregoing instrument, C. B. 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. B. 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. B. 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. B. Osborn is a Vice President and said F. H. Salvador is an Assistant Treasurer of General Mo-

tors 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 Borna

My Commission Expires
January 12, 1950

STATE OF MINNESOTA, }
COUNTY OF RAMSEY. } ss.

I, Alpha M. Sarchet, 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 11th day of September, 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 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.

Alpha M. Sarchet

ALPHA M. SARCHET,
Notary Public, Ramsey County, Minn.
My Commission Expires July 11, 1949

State of Wisconsin } ss.
DEPARTMENT OF STATE

Received this 23rd day of SEPTEMBER A. D. 19 48 at 10:20 o'clock A.M. and recorded in Vol. 42 of RAILROAD MORTGAGES on page 79-93 incl.

Fred R. Zimmerman
Secretary of State

COUNTERPART
No. 5 of Four

ASSIGNMENT

of

CONDITIONAL SALE AGREEMENT

Between

GENERAL MOTORS CORPORATION
(ELECTRO-MOTIVE DIVISION)

and

GREAT NORTHERN RAILWAY COMPANY

To

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK

AGREEMENT, dated as of September 21st, 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 THE CITY OF NEW YORK, a national banking institution, 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 September 1, 1948, covering the construction, sale and delivery of eight (8) Diesel locomotives, hereinafter sometimes referred to as "locomotives", a description and number of locomotives and the estimated price per locomotive being as follows:

One (1) new 6000-horsepower Diesel-Electric Freight Locomotive, consisting of two lead units and two booster units, bearing the Railroad's number 438, at an estimated cost of $606,147.00;

One (1) new 4500-horsepower Diesel-Electric Freight Locomotive, consisting of two lead units and one booster unit, bearing the Railroad's number 306, at an estimated cost of $461,411.00;

Two (2) new 3000-horsepower Diesel-Electric Freight Locomotives, each consisting of two lead units, bearing the Railroad's numbers 264 and 265, respectively, at a total estimated cost of $618,700.00;

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Two (2) new 8000-horsepower Diesel-Electric Freight Locomotives, each consisting of one 4-unit unit and one booster unit, bearing the Railroad's numbers 368 and 387, respectively, at a total estimated cost of $938,706.00;

Two (2) new 1500-horsepower Diesel-Electric Passenger Locomotives, bearing the Railroad's numbers 378-C and 379-C, respectively, at a total estimated cost of $999,888.00;

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 $2,112,000 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

taken by the Railroad under said Agreement in respect of the locomotives described herein.

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 been entered and is prepared to exhibit a statement of account of the Railroad that said Agreement and the 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*
8000-Horsepower Diesel-electric Freight Locomotive	$484,000
4200-Horsepower Diesel-electric Freight Locomotive	268,000
3000-Horsepower Diesel-electric Freight Locomotive, each	247,000
3000-Horsepower Diesel-electric Passenger Locomotive, each	253,000
1500-Horsepower Diesel-electric Passenger Locomotive, each	180,000

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) hereunder as herein referred, whether 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 because 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

The amounts to be so paid by the Bank to the Manufacturer will aggregate $2,112,000.

2. The Railroad agrees to pay to the Bank interest at the rate of two and one-half percent (2½%) per annum, at the times and under the conditions provided in paragraph (b) of Section 2 of said Agreement from the first day of October, 1948.

The term "Railroad" as used in this assignment means Empire Western as distinguished from corporated 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 3 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 free from all liens or encumbrances; 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 cor-

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

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

By .....
Vice President.

ATTEST:

.....
Asst. Treasurer.

Signed, sealed and delivered
in the presence of:

.....

.....
Witnesses.

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,

By .....
Vice President.

ATTEST:

.....
Assistant Cashier.

Signed, sealed and delivered
in the presence of:

.....

.....
Witnesses.

GREAT NORTHERN RAILWAY COMPANY

By .....
Vice President.

ATTEST:

.....
Secretary.

Signed, sealed and delivered
in the presence of:

.....

.....
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 21st day of September, 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 (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 is the seal of said corporation in such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Treasurer in behalf of said corporation by like authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of Cook, State of Illinois, this the day and year in this my certificate first above written.

James Sorna

My Commission Expires
January 12, 1950

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

I, WILLIAM T. LOVELAND, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 24th day of September, 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 The First National Bank of the City of New York to the within and foregoing instrument, ROBERT G. FULLER and W. E. GERDES each to me personally known and known to me to be respectively Vice President and Assistant Cashier of The First National Bank of the City of New York, 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 ROBERT G. FULLER and W. E. GERDES being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said ROBERT G. FULLER resides in the Village of Hinsdale, State of New York, and that the said W. E. GERDES resides in the City of New York, State of New York; that said ROBERT G. FULLER is Vice President and said W. E. GERDES is Assistant Cashier of The First National Bank of the City of New York one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Vice President and Assistant Cashier know the corporate seal of said corporation; that the seal affixed to said instrument is the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Cashier in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of New York, State of New York, this the day and year in this my certificate first above written.

William T. Loveland

WILLIAM T. LOVELAND
NOTARY PUBLIC IN THE STATE OF NEW YORK
RESIDING IN NEW YORK COUNTY
N. Y. CLERK'S NO. 110, REG. NO. 250-L-9
COMMISSION EXPIRES MARCH 30, 1950

99

100

STATE OF MINNESOTA, }
COUNTY OF RAMSEY. } ss.

I, Alpha M. Sarchet, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 14th day of September, 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 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.

Alpha M. Sarchet

ALPHA M. SARCHET,
Notary Public, Ramsey County, Minn.
My Commission Expires July 11, 1949

State of Wisconsin } ss.
DEPARTMENT OF STATE }
Received this 7th day of
OCTOBER A. D. 1948 at 10:00
o'clock A. M. and recorded in Vol.
48 of CHATTEL MORTGAGES
on Page 201 Secretary of State

Executed in 25
Counterparts
Counterpart No 4

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

Lease of Railroad Equipment

DATED AS OF OCTOBER 1, 1948

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

Agreement

DATED AS OF OCTOBER 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-GILBERT PRINTING COMPANY, 350 EAST ONTARIO, CHICAGO

LEASE OF RAILROAD EQUIPMENT, dated as of October 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 October 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 FF," 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 PF (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.

1,000 41'6", 50-ton, composite type gondola cars, Nos. 87930 to 88949, inclusive

1,600 40'6", 50-ton, all steel, box cars, Nos. 24938 to 26537, 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 $8,800,000.

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

shall equal the difference between $6,600,000 and the aggregate cost of all Trust Equipment which then and thereafter 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, 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

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 each 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 $6,600,000, an amount in cash as advance rental, which, with all other payments previously made under the foregoing clause (a) and this clause (b),

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 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 PF, 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 Equip-

ment 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 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, 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 FF, 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 or constructed for such replacement shall be taken in the name of or transferred to 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 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, 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 com-

petent 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 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 premises of the Railroad Company and take possession of all

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

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 FF; 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

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 11th 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, 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.

THIS AGREEMENT, dated as of October 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 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 $6,600,000 to a fund to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series FF, 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 $330,000 each, payable respectively on April 1st and October 1st, in each year, beginning on April 1, 1949, and ending on October 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 FF, 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 issu-

ance 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 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 Trustee, or to the Vendors, and, if to the latter, from the Vendors 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 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, 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 $8,800,000, 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 construc-

tion, 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 $[illegible].

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 $6,600,000 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 Third 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 such certificate, whether definitive or temporary, shall be entitled to receive dividends on said amount at the rate of 2¼ per cent per annum from October 1, 1948, payable semiannually on the first day of April and October in each year. $[illegible] principal amount of the Trust Certificates shall become due and payable on April 1 and October 1 in each year beginning on April 1, 19[illegible], and ending on October 1, 19[illegible]. 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 6,600, 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 FF.

Total Issue not to exceed $6,600,000.

Dividends at the rate of 2¼ 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, 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 FF, 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 October 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 October 1, 1948.

This certificate is one of an issue of certificates, in bearer form, in an aggregate principal amount not exceeding $6,600,000, 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.

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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 or a facsimile thereof to be printed hereon 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, 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 FF, 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 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, or a facsimile of its corporate seal shall be thereon imprinted and, in either case, 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 2¼ per cent per annum from October 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 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

Trust Certificates shall have been declared and have become due and payable, as hereinbefore provided, but before October 1, 1956, all arrears of rental (with interest upon any overdue installment at the same rate per annum as provided in the dividend warrants); the expenses 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 tasting 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

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 relase 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 VI), 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

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 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 any-

thing 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

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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.) 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. H. CONLEY

E. W. FAHRENBACH

Attesting Witnesses.

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

By H. W. Kitchell

Vice- President. H. W. KITCHELL

Attest:

Assistant Secretary. V. P. NELSON

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

H. H. CONLEY

E. W. FAHRENBACH

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

MORELL E. SHARP

Attesting Witnesses.

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, 1953

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

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

I, R. W. SPANGENBERG, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do HEREBY CERTIFY that on the 13th 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. W. SEVERS and _____ 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 R. 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 R. 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 R. W. KITCHELL Vice-President, and said V. P. NELSON Assistant Secretary, of said corporation, 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, 1953

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

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 13th 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, R. 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 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 R. 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 R. W. KITCHELL is Vice-President, and said V. P. NELSON 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. W. KITCHELL Vice-

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 13th 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. W. SEVERS and _____ 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 T. W. BURTNESS resides in Oak Park, in the State of Illinois; that said J. W. SEVERS 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

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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 } ss.
DEPARTMENT OF STATE
Received this 15th day of OCTOBER A. D. 1948 at 10:00 o'clock A. M. and recorded in Vol. 42 of RAILROAD MORTGAGES on pages 109-133, incl.
Fred C. Zimmerman
Assistant Secretary of State

COUNTERPART
No. 3 of 12

SUPPLEMENT TO AGREEMENT AND LEASE
under
CHICAGO AND NORTH WESTERN RAILWAY COMPANY
EQUIPMENT TRUST OF 1946

THIS SUPPLEMENTAL AGREEMENT AND LEASE dated as of October 11, 1948, by and between F. O. LINSTEAD, C. H. WESTBROOK and H. J. DUNHAM (hereinafter called the "Vendors"), party of the first part, CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Trustee under the Equipment Trust hereinafter mentioned (hereinafter called the "Trustee"), party of the second part, and CHICAGO AND NORTH WESTERN RAILWAY COMPANY (hereinafter called the "Railway Company"), party of the third part,

W I T N E S S E T H:

WHEREAS, by a certain Agreement dated as of February 1, 1946, by and between the Vendors, party of the first part, the Trustee, party of the second part, and the Railway Company, party of the third part, and by a certain Lease of Railroad Equipment dated as of February 1, 1946 by and between the Trustee, party of the first part, and said Railway Company, party of the second part, there was constituted Chicago and North Western Railway Company Equipment Trust of 1946; and

WHEREAS, in accordance with the provisions of said Agreement certain Railroad Equipment has been transferred to the Trustee, and the title thereto vested in the Trustee, and by the said Lease, the said Railroad Equipment, as described therein, was leased by the Trustee to said Railway Company for the term and the rent and upon the conditions therein prescribed; and

WHEREAS, in Article VIII of said Lease it was provided:

"The Railway Company, during the continuance of this lease, shall maintain and keep all of the Trust Equipment in good order and proper repair, at its own cost and charge, and shall replace, at its own cost, any of the Trust Equipment that may be released as hereinafter in this Article provided, worn out, unsuitable for use, lost or destroyed, by new standard-gauge rolling stock of substantially as good material and construction and of a value at least equal to the value immediately prior to such release, wearing out, becoming unsuitable for use, loss or destruction (i.e., the fair value in good repair, which may be determined as hereinafter in this Article provided) of the equipment so released, worn out, unsuitable for use, lost or destroyed, the value of the new rolling stock to be figured at cost if that be below current market value of new equipment, or at such current market value if that be below cost; provided, however, that the Railway Company may, pending such replacement, deposit with the Trustee, in trust for the benefit of the holders of the Trust Certificates, cash to an amount equal to such fair value in good condition of such equipment so released, worn out, unsuitable for use, lost, or destroyed, such fair value to be determined and any monies so deposited to be held and applied as hereinafter in this Article provided. The rights and remedies of the Trustee to enforce or to recover any of the rental payments shall not be affected by reason of such release, wearing out, unsuitableness for use, loss or destruction."; and

WHEREAS, certain units of equipment covered by Chicago and North Western Railway Company Equipment Trust of 1946 have been destroyed and there has been deposited with said Trustee, pursuant to the above quoted provision of Article VIII of said Lease, the sum of Ten Thousand Seven Hundred Twelve and 47/100 Dollars ($10,712.47), which sum is available for the replacement of the units of equipment covered by said Equipment Trust which have been destroyed, and the parties hereto desire that said sum be applied toward the cost of purchasing new equipment which,

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when acquired, will be covered by said Equipment Trust and title to which shall be taken in the name of the Trustee; and

WHEREAS, the Vendors have entered into contracts, both dated as of June 28, 1948, for the purchase of additional equipment consisting of two hopper cars, one of which cars is to be a 70-ton all steel hopper car to be purchased from Pullman-Standard Car Manufacturing Company at the estimated cost of Four Thousand Four Hundred Fifty-six and 52/100 Dollars ($4,456.52), and the other of which cars is to be a 70-ton steel covered hopper car to be purchased from General American Transportation Corporation at an estimated cost of Five Thousand Six Hundred Twenty-two and 47/100 Dollars ($5,622.47), neither of which two cars has yet been delivered, and each of which cars at the time of delivery will be transferred to the Trustee and title thereto vested in the Trustee pursuant to the provisions of said Lease;

NOW, THEREFORE, in consideration of the premises and of the sum of One Dollar ($1.00) paid by the Railway Company to the Trustee at or before the ensealing and delivery hereof, the receipt whereof is hereby acknowledged, and of the rents, covenants and conditions to be paid, kept and performed by the Railway Company, and of the mutual covenants and agreements herein contained, it is hereby agreed by the respective parties hereto as follows:

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 and the registered holders of the Trust Certificates de-

scribed in said Agreement, the following Railroad Equipment described:

1 70-ton all steel open top hopper car numbered 68103 and lettered "CNW"

1 70-ton steel covered hopper car numbered 69437 and lettered "CNW",

together with all rights, claims, demands and remedies of the said Vendors accruing or to accrue under their contracts for the construction and delivery of said equipment.

2. The Trustee (acting in pursuance of said Agreement and said Lease respectively dated as of February 1, 1946) has let and leased and does hereby let and lease to the Railway Company for the term beginning on the date of delivery thereof to it and ending on the first day of February, 1961, the Railroad Equipment above described, consisting of one 70-ton all steel open top hopper car and one 70-ton steel covered hopper car, whether the same be owned by the Trustee at the date hereof or be hereafter acquired.

3. The Trustee and the Railway Company covenant and agree that this Supplement to said Agreement and Lease is upon and subject to all the terms and conditions of said Agreement and said Lease, respectively dated as of February 1, 1946, and that the said additional Railroad Equipment, hereinabove described, shall be a portion of the Trust Equipment as defined in said Agreement and said Lease, subject to all the terms, covenants and conditions of said Agreement and said Lease, as hereby supplemented, in all respects as though it had been a part of the original Trust Equipment designated in said Agreement and

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said Lease.

4. In the event that the cost of said equipment, delivered, should exceed the said sum of Ten Thousand Seven Hundred Twelve and 47/100 Dollars ($10,712.47) already deposited with the Trustee, the Railway Company will on demand of the Trustee forthwith pay to the Trustee as additional rent under said Lease such amounts as shall, together with said sum of Ten Thousand Seven Hundred Twelve and 47/100 Dollars ($10,712.47) heretofore deposited with said Trustee, be sufficient to pay the total cost of said equipment, including such sums, if any, as may be necessary to pay in full the bills of the manufacturers of said equipment. Contemporaneously with the transfer and delivery of any of said equipment to the Trustee, and delivery to the Trustee of the certificates, opinions and other documents required by Article VIII of the aforesaid Lease, the Trustee shall pay the cost thereof out of cash on deposit with it amounting to $10,712.47 and out of such additional rental, if any, as shall be paid to the Trustee pursuant to the preceding provisions of this paragraph 4.

5. This Supplement to Agreement and 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.

IN WITNESS WHEREOF the Vendors have hereunto set their hands and seals and the Trustee and the Railway Company have caused their names to be signed hereto by their respective

officers thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, as of October 11, 1948.

(F. O. Linstead)

(C. H. Westbrook)

(H. J. Dunham)

Signed, sealed and delivered by F. O. Linstead, C. H. Westbrook and H. J. Dunham in the presence of

As Witnesses

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, TRUSTEE

By

Vice President

Attest:

Assistant Secretary

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

As Witnesses

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CHICAGO AND NORTH WESTERN
RAILWAY COMPANY
By Barret Conway
Vice President

Attest:
W. F. White
Assistant Secretary

Signed, sealed and delivered by
Chicago and North Western Railway
Company in the presence of

R C Bequette

P. T Morgan

As Witnesses

STATE OF ILLINOIS }
} SS
COUNTY OF COOK }

I, MARGARET C. CARMODY, a Notary Public in and for said County, in said State of Illinois, do hereby certify that on this 11th day of October, 1948, BARRET CONWAY and W. F. WHITE, personally known to me and known by me to be the persons who executed the foregoing instrument for and on behalf of Chicago and North Western Railway Company and to be, respectively, a Vice President and an Assistant Secretary of said Chicago and North Western Railway Company (one of the corporations that is described in and that executed the foregoing instrument), appeared before me in person and each, being by me duly sworn, said and acknowledged that said BARRET CONWAY is a Vice President and said W. F. WHITE is an Assistant Secretary of said Railway Company, that the seal affixed to the foregoing instrument is the corporate seal of such corporation, that said instrument was executed, signed and sealed on behalf of such corporation by authority of its Board of Directors, that they executed the foregoing instrument as their voluntary and free act and deed, in their official capacity as officers of said Chicago and North Western Railway Company in behalf of said Railway Company and that such corporation executed the same as its voluntary and free act and deed by it voluntarily executed, and that they were duly authorized so to do by its Board of Directors, for the uses and purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal as Notary Public aforesaid, this 11th day of October, 1948.

Margaret C Carmody
Notary Public in and for Cook
County, Illinois

My commission expires July 19, 1949.

STATE OF ILLINOIS }
} SS
COUNTY OF COOK }

I, H. J. GROENER, a Notary Public in and for the County of Cook, in the State of Illinois, DO HEREBY CERTIFY that on this 13th day of October, 1948, before me, the subscriber, personally appeared H. W. Kitchell and V. P. Nelson, a Vice President and an Assistant Secretary, respectively, of Continental Illinois National Bank and Trust Company of Chicago, a corporation, and on said same day also appeared before me by its said officers the said Continental Illinois National Bank and Trust Company of Chicago, being known to me to be the corporation whose name is subscribed to the foregoing instrument, and which executed the same as party of the second part; that H. W. Kitchell and V. P. Nelson are personally known to me and are known to me to be a Vice President and an Assistant Secretary, respectively, of said Continental Illinois National Bank and Trust Company of Chicago and the identical persons whose names are subscribed to the foregoing instrument as a Vice President and an Assistant Secretary of said corporation; and said H. W. Kitchell and V. P. Nelson then and there severally acknowledged that they signed, sealed and delivered the foregoing instrument as a Vice President and an Assistant Secretary, respectively, of said Continental Illinois National Bank and Trust Company of Chicago, and in behalf of said corporation and by order of its Board of Directors, and that they were a Vice President and an Assistant Secretary, respectively, of said corporation at the time of the execution of said foregoing instrument, and that the seal attached to said instrument is the corporate seal of said Continental Illinois National Bank and Trust Company of Chicago and was affixed to said instrument on behalf of said corporation and by order of its Board of Directors; and I further certify that said H. W. Kitchell and V. P. Nelson then and there further severally acknowledged that they executed said instrument as their free and voluntary act and deed as such a Vice President and an Assistant Secretary, respectively, and as the free and voluntary act and deed of said Continental Illinois National Bank and Trust Company of Chicago, and for the uses and purposes in said instrument set forth.

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And at the same time said H. W. Kitchell and V. P. Nelson, being by me severally and duly sworn, did severally depose and say that they resided, the said H. W. Kitchell in Evanston, and the said V. P. Nelson in Chicago; that said Continental Illinois National Bank and Trust Company of Chicago is a corporation; that they are and at the time of the execution of the foregoing instrument were a Vice President and an Assistant Secretary, respectively, of said Continental Illinois National Bank and Trust Company of Chicago, the corporation described in and which executed the foregoing instrument; that they knew the seal of said corporation; that they signed the foregoing instrument as a Vice President and an Assistant Secretary, respectively, of said corporation and in its behalf and by order of its Board of Directors; and that the seal affixed to said instrument is the seal of said Continental Illinois National Bank and Trust Company of Chicago and was so affixed by them by order of the Board of Directors of said corporation.

And I further certify that I knew the seal affixed to the foregoing instrument to be the corporate seal of said Continental Illinois National Bank and Trust Company of Chicago, and that said instrument is executed and acknowledged according to and in conformity with the laws of the State of Illinois.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal as Notary Public for the County of Cook in the State of Illinois, on said 13th day of October, 1948.

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

My commission expires APRIL 28, 1952.

STATE OF ILLINOIS }
} SS
COUNTY OF COOK }

I, MARGARET C. CARMODY, a Notary Public in and for the County of Cook, in the State of Illinois, DO HEREBY CERTIFY that F. O. LINSTEAD, C. H. WESTBROOK and H. J. DUNHAM, personally known to me to be the same persons described in and who executed the foregoing instrument, whose names are subscribed to the foregoing instrument, personally appeared before me this day and acknowledged that they signed, sealed, executed and delivered

the said instrument as their free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and official seal this 11th day of October, 1948.

Margaret C Carmody
Notary Public in and for
Cook County, Illinois.

My commission expires July 19, 1949.

State of Wisconsin }
DEPARTMENT OF STATE } ss.
Received this 16th day of
OCTOBER A. D. 1948 at 10:00
o'clock A.M. and recorded in Vol.
42 of RAILROAD MORTGAGES
on page 134-138, incl.
Walter J Kuehnau
Assistant Secretary of State

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Executed in 20
Counterparts
Counterpart No 4

Second Supplemental Agreement

DATED AS OF SEPTEMBER 1, 1948

BETWEEN

THE FIRST NATIONAL BANK OF CHICAGO

AND

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

AMENDING CONDITIONAL SALE AGREEMENT DATED AS OF JULY 1, 1946, BETWEEN FAIRBANKS, MORSE & CO. AND CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY FOR PURCHASE OF FIVE 6,000 HORSEPOWER DIESEL ELECTRIC PASSENGER LOCOMOTIVES.

THE DUNHOOP-HARDEN PRINTING COMPANY, 310 WEST JACKSON, CHICAGO

This Second Supplemental Agreement, Dated as of September 1, 1948, by and between **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 "Owner") as party of the first part, and **CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY**, a corporation organized and existing under the laws of the State of Wisconsin (hereinafter sometimes referred to as the "Buyer"), as party of the second part,

WITNESSETH THAT:

WHEREAS, 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 "Manufacturer") and the Buyer herein, entered into a certain written Conditional Sale Agreement dated as of July 1, 1946, covering the construction, sale and delivery by the Manufacturer and the purchase and acceptance by the Buyer, of Five new 6,000 horsepower Diesel Electric Passenger Locomotives bearing Manufacturer's Serial Numbers and Buyer's Road Numbers, as follows:

	"A" Unit		"B" Unit		"A" Unit	
	Serial No.	Road No.	Serial No.	Road No.	Serial No.	Road No.
(1)	LD-1063	5A	LD-1064	5B	LD-1065	5C
(2)	LD-1066	6A	LD-1067	6B	LD-1068	6C
(3)	LD-1069	7A	LD-1070	7B	LD-1071	7C
(4)	LD-1072	8A	LD-1073	8B	LD-1074	8C
(5)	LD-1075	9A	LD-1076	9B	LD-1077	9C

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AND WHEREAS, the Owner herein and said Manufacturer entered into a certain written Agreement and Assignment dated as of July 5, 1946, whereby the Manufacturer sold, assigned, transferred and set over unto the Owner herein, as Assignee, all of the right, title and interest of said Manufacturer under said Conditional Sale Agreement in and to said Locomotives upon and subject to the terms and conditions as provided therein; and

WHEREAS, said Manufacturer and the Buyer herein entered into a certain written Supplemental Agreement dated as of December 27, 1946, supplementing and amending the said Conditional Sale Agreement dated as of July 1, 1946, by enlarging the time for the delivery of certain of said Locomotives to March 31, 1947; and

WHEREAS, said Manufacturer and the Owner herein entered into a certain Supplemental Agreement and Assignment dated as of December 31, 1946, supplementing and amending said Agreement and Assignment dated as of July 5, 1946, to make reference to said Supplemental Agreement dated December 27, 1946, and to similarly enlarge the time for the delivery of certain of said Locomotives provided for in said Agreement and Assignment dated as of July 5, 1946; and

WHEREAS, said Conditional Sale Agreement and said Agreement and Assignment identify the Locomotives and the units thereof provided for therein by the Buyer's Road Numbers hereinabove listed and set forth; and

WHEREAS, said Conditional Sale Agreement as supplemented is in full force and effect and title to the Locomotives covered thereby is vested in the Owner in pursuance thereof; and

WHEREAS, the aforesaid Road Numbers assigned by the Buyer herein to the aforesaid units of said Locomotives were so assigned in contemplation of the use thereof by the Buyer as 6,000 horsepower Locomotives, each consisting of three 2,000 horsepower units, and the Buyer has now determined that the aforesaid units of said Locomotives are more efficiently and economically operated as 4,000 horsepower Locomotives, each consisting of two 2,000 horsepower units; and

WHEREAS, in the last mentioned use of said units of said Locomotives, the Buyer has determined that efficiency and safety of operation will be promoted in such changed use of said units of said Locomotives by changing, as hereinafter set forth, the Buyer's Road Numbers of those of

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the national banking association described in and which executed the within and foregoing instrument in writing; that they, said A. Buchanan and R. V. Keeth, Vice President and Assistant Cashier, respectively, know the corporate seal of said national banking association; that the seal affixed to said instrument as the seal of said national banking association is such corporate seal; that it was so affixed thereto by authority of the Board of Directors of said national banking association; that they and each of them signed their names to, and executed, the foregoing instrument in their respective capacities as 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 Jan 27, 1950

John Edgar

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

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

I, R. W. SPANGENBERG, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, DO HEREBY CERTIFY that on the 13th 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, 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.

SCHEDULE A.

PART I.

Record of filing and/or recording of Conditional Sale Agreement dated as of July 1, 1946, between Fairbanks, Morse & Co. and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, and Agreement and Assignment dated as of July 5, 1946, between Fairbanks Morse & Co. and The First National Bank of Chicago.

State or County	Recording Office	Date Filed		Book and Page of Record	
Idaho	Secretary of State	Sept. 9, 1946		Film Roll No. 4	
Illinois	Secretary of State	Sept. 6, 1946		Recording not required	
Indiana	Secretary of State	Sept. 6, 1946		Recording not required	
Iowa	Secretary of State	Sept. 7, 1946		Recording not required	
Kansas	Secretary of State	Sept. 6, 1946	12	Record of Leases	Page 189
Michigan	Secretary of State	Sept. 6, 1946		Recording not required	
Minnesota	Secretary of State	Sept. 26, 1946	30	Gen. R. R. Records and Liens	Page 86
Hennepin County, Minn.	Register of Deeds	Sept. 18, 1946	480	Miscellaneous	Page 227
Missouri	Secretary of State	Sept. 6, 1946	36	Contracts and Agreements	Page 83
Montana	Secretary of State	Sept. 9, 1946	17	Mortgages	Page 174
Nebraska	Secretary of State	Sept. 6, 1946		"Q"	Page 38
North Dakota	Secretary of State	Sept. 7, 1946	8	Railroad Telegraph and Telephone	Page 571
South Dakota	Secretary of State	Sept. 7, 1946	18	Ry. Deeds, Mortgages and Leases	Page 259
King County, Wash.	County Auditor	Sept. 28, 1946	2129	Mortgages	Page 428
Wisconsin	Secretary of State	Sept. 6, 1946	39	Railroad Mortgages	Page 200

PART II.

Record of filing and/or recording of Supplemental Agreement dated as of December 27, 1946, between Fairbanks, Morse & Co. and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, and Supplemental Agreement and Assignment dated as of December 31, 1946, between Fairbanks, Morse & Co. and The First National Bank of Chicago.

State or County	Recording Office	Date Filed		Book and Page of Record	
Idaho	Secretary of State	Jan. 23, 1947		Film Roll No. 9	
Illinois	Secretary of State	Jan. 27, 1947		Recording not required	
Indiana	Secretary of State	Jan. 27, 1947		Recording not required	
Iowa	Secretary of State	Jan. 23, 1947		Recording not required	
Kansas	Secretary of State	Jan. 27, 1947	12	Record of Leases	Page 214
Michigan	Secretary of State	Jan. 24, 1947		Recording not required	
Minnesota	Secretary of State	Feb. 5, 1947	31	Gen. R. R. Records and Liens	Page 44
Hennepin County, Minn.	Register of Deeds	Feb. 5, 1947	478	Miscellaneous	Page 617
Missouri	Secretary of State	Jan. 23, 1947	37	Contracts and Agreements	Page 190
Montana	Secretary of State	Jan. 24, 1947	18	Mortgages	Page 64
Nebraska	Secretary of State	Jan. 24, 1947		"Q"	Page 62
North Dakota	Secretary of State	Jan. 25, 1947	9	Railroad Telegraph and Telephone	Page 133
South Dakota	Secretary of State	Jan. 23, 1947	18	Ry. Deeds, Mortgages and Leases	Page 401
King County, Wash.	County Auditor	Feb. 20, 1947	2179	Mortgages	Page 577
Wisconsin	Secretary of State	Jan. 23, 1947	39	Railroad Mortgages	Page 300

State of Wisconsin } ss.
DEPARTMENT OF STATE

Received this 28th day of OCTOBER A. D. 1948 at 10:00 o'clock A.M. and recorded in Vol. 42 of RAILROAD MORTGAGES on pages 139-144, INCL.

Thos. E. Fairchild
Secretary of State

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Executed in 25 Counterparts
Counterpart No. 9 (a)

GREAT NORTHERN RAILWAY EQUIPMENT TRUST OF 1948

Agreement

Dated September 1, 1948

BETWEEN

BURLINGTON EQUIPMENT COMPANY,
Vendor,

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,
Trustee,

AND

GREAT NORTHERN RAILWAY COMPANY

Lease

Dated September 1, 1948

FROM

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,
Trustee,

TO

GREAT NORTHERN RAILWAY COMPANY

THIS AGREEMENT, dated September 1, 1948, by and between BURLINGTON EQUIPMENT COMPANY, a corporation duly organized and existing under the laws of the State of Illinois (hereinafter called the "Vendor"), of the first part, THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, a corporation duly organized and existing under the laws of the United States of America, Trustee as hereinafter mentioned (hereinafter called the "Trustee"), of the second part, and GREAT NORTHERN RAILWAY COMPANY, a corporation duly organized and existing under the laws of the State of Minnesota (hereinafter called the "Company"), of the third part, witnesseth:

WHEREAS, the Company desires to obtain additional rolling stock in order that traffic over its lines may be properly transported, and it has been deemed expedient to make provision therefor through the medium of an equipment trust; and

WHEREAS, the Vendor has contracted to acquire or will acquire or contract to acquire the railroad equipment specifically described in the lease from the Trustee to the Company annexed to this agreement, which equipment together with the additional and substituted equipment provided for in this agreement and in said lease is hereinafter called the Trust Equipment; and

WHEREAS, the title to the Trust Equipment is to be vested in the Trustee and is to be retained by the Trustee until transferred under the provisions of said lease; and

WHEREAS, subscriptions are to be secured to a fund to be known as Great Northern Railway Equipment Trust of 1948, which said fund is to be applied by, or upon the written order of, the Vendor in part payment of the cost of said Trust Equipment; the remainder of such cost to be discharged out of advance rentals to be paid by the Company under the terms of this agreement and said lease; and

WHEREAS, the Vendor desires to evidence the rights of the subscribers to said fund by Trust Certificates in substantially the form hereinafter set forth and to secure to said subscribers, or their assigns,

the payment of the amount of the aggregate par value of said Trust Certificates in equal semi-annual installments, with dividends thereon to the respective dates of maturity thereof, payable semi-annually on the first day of March and the first day of September in each year, all as hereinafter more particularly provided;

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

ARTICLE I.

SECTION 1. The Vendor, as speedily as may be, will cause to be built or acquired the Trust Equipment specifically described in the lease from the Trustee to the Company annexed to this agreement, to which lease reference is hereby made, and will sell, assign, transfer and set over or cause to be assigned, transferred and set over said Trust Equipment unto the Trustee, as trustee for the holders of the Trust Certificates hereinafter described, when and as the Trust Equipment (or units thereof) is constructed or completed. The Vendor will deliver or cause to be delivered said Trust Equipment, f. o. b. tracks acceptable to the Company to be specified by it, 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 Company, and the certificate of any agent so designated shall be conclusive evidence of such delivery.

The Trustee and the Company shall, simultaneously with the execution of this agreement, execute and deliver the lease of the Trust Equipment annexed hereto, and the Trustee, pursuant to the terms of such lease, shall deliver or cause to be delivered the Trust Equipment when received by it to the Company.

SECTION 2. The Trustee shall at any time, or from time to time, upon written request of the Vendor, and without awaiting the recording, registration or filing of this agreement or of said lease, execute and deliver to the subscriber or subscribers to said fund, as designated in writing by the Vendor, Trust Certificates of an aggregate par value of $2,160,000, and of such maturity or maturities referred to herein as

shall be designated in such request, upon the deposit in cash with the Trustee of the net proceeds of the subscriptions to said fund and upon deposit by the Company with the Trustee, in discharge *pro tanto* of advance rental payable by the Company to the Trustee under the aforesaid lease, of such additional amount in cash as will make the total sum deposited not less than $2,160,000. For the purpose of this agreement and said lease the term "net proceeds of the subscriptions" shall not be construed to include any premium or accrued dividends paid by or for account of the subscribers to said fund as part of their subscriptions, but the amount of such premium and such accrued dividends shall, nevertheless, be deposited with the Trustee and be applied by it on account of the first and next succeeding installments of rental payable under subparagraph (*c*) of subdivision B of Article First of said lease.

SECTION 3. 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 held by it in trust for the benefit of the holders of the Trust Certificates, without liability for interest save as may be agreed upon between it and the Company. Any interest accruing upon any such moneys, or interest or income produced by investment of Deposited Cash as provided in Section 6 of Article I hereof shall be paid from time to time to the order of the Company if the Company shall not then be known by the Trustee to be in default hereunder or under said lease.

SECTION 4. From time to time, when and as any of the Trust Equipment shall have been transferred and delivered to the Trustee, and provided that a lease of such delivered equipment shall have been made by the Trustee to the Company, all as in this agreement provided, the Trustee shall, subject to the provisions of Section 5 of this Article I, pay to the Vendor, or upon its written order, out of and to the extent of the cash, other than accrued dividends or premiums as aforesaid, deposited with the Trustee, as in Section 2 of this Article I provided (hereinafter called the Deposited Cash), an amount equal to eighty per cent (80%) of the cost of the Trust Equipment so delivered to the Trustee.

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The Company covenants that, contemporaneously with each such delivery to the Trustee, the Company will pay to the Trustee, as advance rental as provided in the said lease, amounts equal to the cost of such delivered Trust Equipment in excess of the portion, if any, of such cost payable out of the Deposited Cash, and being not less than twenty per cent (20%) of the said cost. Thereupon the Trustee will pay to the Vendor, or upon its written order, by the use of such advance rental, the cost of the delivered Trust Equipment in excess of the portion, if any, of such cost payable out of the Deposited Cash.

SECTION 5. 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 described therein and specified by serial number or numbers, if any, has been delivered to such agent or agents and by such agent or agents delivered to the Company and marked in accordance with the provisions of Article Third of said lease.

(*b*) A bill or bills of sale transferring to the Trustee the Trust Equipment described in said certificate, which bill or bills of sale shall contain or be accompanied by a warranty or guaranty that the title to the Trust Equipment described therein is free from all liens and encumbrances.

(*c*) An opinion of counsel (who may be counsel to the Company), 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 and specified in such opinion, to vest in the Trustee, free from all liens and encumbrances, the title so transferred to the Trustee.

(*d*) A certificate signed by a Vice-President, the Treasurer or an Assistant Treasurer of the Company, stating that the cost of such Trust Equipment is an amount therein specified.

Any such certificate as to cost may state that the cost of the Trust Equipment therein referred to is tentatively determined, subject to final determination, but is not less than an amount therein specified.

Where any certificate as to cost shall state that the cost of the Trust Equipment therein referred to is tentatively determined, the cost of such equipment shall be subject to final determination and such final determination may be evidenced by a certificate or certificates thereafter filed on the basis of which any necessary adjustments shall be made. A final certificate, or final certificates, signed as provided in paragraph (*d*) above, as to the cost of the Trust Equipment shall be delivered to the Trustee by the Vendor and the cost of the Trust Equipment shall be conclusively established by such final certificate or final certificates.

Anything herein or in said lease contained to the contrary notwithstanding, the Trustee shall, for all purposes of this agreement and said lease, accept as the cost of any of the Trust Equipment the respective amounts certified to it pursuant to subdivision (*d*) of this Section 5. In case any certificate furnished pursuant to said subdivision (*d*) shall state that the cost of the equipment therein referred to is tentatively determined subject to final determination, such certificate shall nevertheless be accepted and acted upon by the Trustee on the basis of the minimum cost therein specified, pending adjustment.

If the aggregate final cost of all the Trust Equipment specifically described in said lease should be less than $2,700,000, the Vendor will acquire and transfer or cause to be transferred, to the Trustee, subject to and in compliance with all the terms of this agreement, other new standard-guage rolling stock of substantially as good material and construction as the equipment specifically provided for in said lease, approved as to character by the Company, of such cost that the aggregate final cost of the Trust Equipment specifically described in said lease and any such other rolling stock (hereinafter sometimes collectively referred to as the original Trust Equipment) will be at least $2,700,000. The term "Trust Equipment" as used herein and in said lease annexed to this agreement shall include any additional rolling stock acquired and transferred to the Trustee under the terms of this Section 5 of Article I.

SECTION 6. Any Deposited Cash, not needed to pay for Trust Equipment delivered or about to be delivered, may upon the written request of the Company, signed by its President, Vice President or

Treasurer, be invested or reinvested by the Trustee in such obligations of the United States of America as the Company may designate. Such obligations shall be held by the Trustee as a part of the Deposited Cash; but, upon a like request of the Company, or at any time when the Trustee in its discretion shall deem such action advisable, the Trustee shall sell all or any designated part of the same, and the proceeds shall be held by the Trustee subject to the same provisions hereof as the cash used by it to purchase the obligations so sold. If the proceeds from the sale of any of the obligations shall be less than the purchase price thereof, or if the market value of any obligations so deposited hereunder shall, in the judgment of the Trustee, at any time be less than the cash so invested, in either event the Company shall deposit hereunder with the Trustee cash sufficient to make up the deficiency. Any profit resulting from, or interest or income produced by, such investment shall accrue and be paid to the Company as provided in Section 3 of Article I hereof.

SECTION 7. Any Deposited Cash remaining in the hands of the Trustee after the delivery of all of the original Trust Equipment and payment therefor in the manner provided in this agreement, shall be applied by the Trustee toward payment of the next maturing par value of the Trust Certificates then outstanding, when and as the same shall become payable, and to the extent that such payments are so made by the Trustee out of the balance of the Deposited Cash in its hands the next maturing installment of rental payable pursuant to subparagraph (*d*) of subdivision B of Article First of said lease shall be correspondingly reduced.

SECTION 8. Anything in this agreement contained to the contrary notwithstanding, the aggregate par value of the Trust Certificates which may be executed and delivered by the Trustee under this agreement shall not exceed the sum of $2,160,000, except as provided in Section 6 of Article II hereof.

ARTICLE II.

SECTION 1. Each of the Trust Certificates shall represent an interest to the amount of its par value (which shall be one thousand dollars ($1,000) in the case of definitive Trust Certificates) in the trust hereby created, and the holder or registered owner thereof shall be entitled

to receive dividends on said amount from September 1, 1948, payable semi-annually on the first day of March and the first day of September in each year, commencing March 1, 1949, at a rate per annum to be determined at the time of delivery of the Trust Certificates by the Trustee. The par value of the Trust Certificates shall become due and payable, beginning March 1, 1949, in a number of equal semi-annual maturities to be determined at the time of delivery of the Trust Certificates by the Trustee, on March 1 and September 1 in each year; provided, however, that the latest such semi-annual maturity shall not be later than September 1, 1963.

The due date of each Trust Certificate and the rate of dividend payable thereon shall appear upon its face. Definitive Trust Certificates shall be numbered from 1 consecutively upwards to 2,160 both inclusive.

Dividend warrants evidencing the right of the holders of the definitive Trust Certificates to the dividends thereon, shall be annexed to the respective Trust Certificates. All dividends on the respective Trust Certificates shall cease after the par value thereof shall have become due unless payment thereof shall not be duly made upon demand.

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

[FORM OF TRUST CERTIFICATE]

$1,000 No.....

GREAT NORTHERN RAILWAY
EQUIPMENT TRUST OF 1948

—% EQUIPMENT TRUST CERTIFICATE.
Total Issue—$2,160,000

Dividends at the Rate of Per Cent.
Per Annum, Payable March 1 and September 1.

THE FIRST NATIONAL BANK OF THE CITY OF
NEW YORK, TRUSTEE.

Par Value Payable 1, 19 .

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, TRUSTEE under an agreement dated September 1, 1948, by and between Burling-

ton Equipment Company, of the first part, The First National Bank of the City of New York, Trustee, of the second part, and Great Northern Railway Company, of the third part, hereby certifies that the bearer, or, if this certificate be registered as to par value, the registered owner hereof, is entitled to an interest of the par value of One Thousand Dollars ($1,000) in the Great Northern Railway Equipment Trust of 1948, and, as hereinafter more fully provided, is entitled to the payment of said sum on 1, 19 , upon surrender of this certificate to the undersigned at its office in the Borough of Manhattan, City and State of New York, and to payment, until and including said last mentioned date, of dividends on said sum at the rate of per centum (%) per annum from September 1, 1948, semi-annually on March 1 and September 1 in each year, according to the tenor of the dividend warrants hereto annexed, upon presentation and surrender of such warrants, as they severally mature, to the undersigned at its said office; both the par value of this certificate and the dividends thereon being payable at said office in lawful money of the United States of America, but only from and out of rentals received by the undersigned pursuant to the provisions of said agreement, dated September 1, 1948, and of a certain lease of railroad equipment made by The First National Bank of the City of New York, Trustee, to Great Northern Railway Company, dated September 1, 1948, or from and out of other moneys received by the Trustee as provided in said agreement or lease.

This certificate is one of an issue of two thousand one hundred and sixty (2,160) certificates for One Thousand Dollars ($1,000) each, similar except as to dates of maturity, all issued or to be issued under and subject to the terms of said agreement, under which said railroad equipment (or Deposited Cash in lieu thereof as provided in said agreement) and said lease thereof are held by said Trustee in trust for the equal benefit of the holders of the interests represented by said certificates, to which agreement and lease, filed with the Trustee at its said office, reference is made for a full statement respecting the terms and conditions governing the issuance of this certificate, the rights and obligations of the Company, the duties and immunities of the undersigned and the rights of the holder or registered owner hereof thereunder.

This certificate may be registered as to par value at the office of the Trustee in the Borough of Manhattan, City and State of New York, in the name of the holder hereof, and such registration noted hereon by the Trustee. Thereafter title to the interest represented by this certificate shall pass only by transfer so registered at said office unless and

until a transfer to bearer shall have been similarly registered and noted hereon. Such registration shall apply only to the par value of this certificate and not to its dividend warrants, which shall continue to be payable to bearer and transferable by delivery.

Every taker and holder of this certificate and of the appurtenant warrants, by accepting the same, agrees with the undersigned and with every subsequent taker and holder hereof and thereof, that this certificate (unless registered as to par value) and such warrants shall be transferable with the same effect as in the case of a negotiable instrument payable to bearer, by delivery by any person having possession of the same, respectively, howsoever such possession may have been acquired, and that the undersigned may treat the bearer of this certificate, or the registered owner hereof if this certificate be registered as to par value, as above provided, and the bearer of the warrants attached hereto, whether or not this certificate be so registered, as the absolute owner of this certificate or of said warrants, as the case may be, for all purposes, and that the undersigned 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 Great Northern Railway Company in said agreement or lease contained, the par value represented by this certificate may be declared due and payable in the manner and with the effect provided in said agreement.

Neither this certificate nor the dividend warrants attached hereto shall be deemed in any wise a promise to pay of the undersigned.

In witness whereof, the Trustee has caused this certificate to be signed by its President or one of its Vice-Presidents and a facsimile of its corporate seal to be hereon imprinted and to be attested by its Cashier or one of its Assistant Cashiers, and dividend warrants, bearing the facsimile signature of its Cashier, to be attached hereto, as of the first day of September, 1948.

The First National Bank of the
City of New York,
Trustee,

By .....
Vice-President.

Attest:

.....
Assistant Cashier.

[form of dividend warrant]

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

Due to the bearer hereof on the first day of ....., 19...., on surrender hereof at the office of the undersigned in the Borough of Manhattan, City and State of New York,
Dollars ($) payable in lawful money of the United States of America, being the semi-annual dividend then due on Certificate No. ..... of Great Northern Railway Equipment Trust of 1948, payable only out of rentals or other moneys received by the undersigned pursuant to the agreement and lease, dated September 1, 1948, referred to in said certificate, and as therein provided.

The First National Bank of the
City of New York,
Trustee,

By .....
Cashier.

[form of guaranty]

Great Northern Railway Company, for a valuable consideration, hereby unconditionally guarantees to the bearer or, if registered as to par value, to the registered owner of the within certificate the prompt payment of One Thousand Dollars ($1,000), being the par value of said certificate, when the same shall become due and payable, whether at the maturity thereof or otherwise under the provisions thereof or of the agreement therein mentioned, and of dividends thereon at the rate of ——— per centum (——%) per annum, on the semi-annual dates and otherwise as mentioned in said certificate and in the dividend warrants thereto attached; all in lawful money of the United States of America.

Dated as of September 1, 1948.

Great Northern Railway Company,

By.....
Vice President.

Section 3. The Trust Certificates shall be executed in the name and on behalf of the Trustee by its President or one of its Vice-Presidents, under its corporate seal (which may be in facsimile) attested by its Cashier or one of its Assistant Cashiers. 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 may 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 thereto attached shall be authenticated by the facsimile signature of the present or any future Cashier of the Trustee; the Trustee may adopt and use for that purpose any such facsimile signature notwithstanding the fact that such Cashier shall have ceased to be such Cashier at the time when any such Trust Certificates shall be issued and delivered as herein provided. Before executing or delivering any Trust Certificates, all matured dividend warrants thereto appertaining shall be detached and cancelled by the Trustee.

Section 4. Temporary printed Trust Certificates, without dividend warrants, or with one or more dividend warrants, and with or without provisions for registration, in such form and denominations as the Trustee may determine, may be issued by the Trustee, upon which shall be endorsed the guaranty of the Company in the form aforesaid with such changes as may be appropriate and such temporary Trust Certificates shall be exchangeable, without cost to the holder, upon surrender, for a like aggregate par value of definitive Trust Certificates of like maturity dates, having endorsed thereon the guaranty of the Company in the form aforesaid, when the same shall have been prepared. Until so exchanged, such temporary Trust Certificates shall be entitled to the same benefits of this agreement in all respects as such definitive Trust Certificates, including the payment of dividends and the guaranty by the Company.

SECTION 5. The Trust Certificates shall be negotiable and shall pass by delivery unless registered as to par value in the manner in this agreement provided. Any of the definitive Trust Certificates may be registered as to the par value thereof in the name of the holder at the office of the Trustee in the Borough of Manhattan, City and State of New York, and such registration shall be noted on the Trust Certificates by the Trustee. Thereafter no transfer thereof shall be valid unless made at said office by the registered owner thereof in person, or by his duly authorized attorney, and similarly noted thereon; but the same may be discharged from registration by being in like manner transferred to bearer, whereupon transferability by delivery shall be restored, 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 with the same effect as in the case of a negotiable instrument payable to bearer, by delivery thereof by any person in possession of the same, howsoever such possession may have been acquired.

Anything to the contrary herein notwithstanding, the parties hereto may deem and treat the bearer of any Trust Certificate not registered as to par value 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 Trust Certificate registered as to par value as the absolute owner of such Trust Certificate for all purposes, except payment of dividends, the right to receive which is evidenced by dividend warrants, 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 appurtenant thereto (if any) shall become mutilated or defaced or be lost, stolen or destroyed, then on the terms herein set forth, and not otherwise, the Trustee shall upon the written request of the Company execute and deliver a new Trust Certificate (and the Company at the request of the Trustee shall execute its guaranty thereon), with all unmatured dividend warrants (if any) appertaining thereto, of like maturity, tenor and date, and bearing the same serial number as the one mutilated, defaced, lost, stolen or destroyed, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Trust Certificate and dividend warrants (if any), or in lieu of or in substitution for the same if lost, stolen or destroyed, and the Trustee shall make payment of any matured and unpaid dividend warrants appertaining to the same. The applicant for a new Trust Certificate shall furnish to the Trustee and to the Company evidence to their satisfaction of the loss, theft or destruction of such Trust Certificate and warrants (if any) alleged to have been lost, stolen or destroyed, and of the ownership and authenticity of such mutilated, defaced, lost, stolen or destroyed Trust Certificate and warrants (if any), and also such security and indemnity as may be required by the Trustee and by the Company in their discretion; and shall pay all expenses and charges of such substitution or exchange. All Trust Certificates and warrants are held and owned upon the express condition that the foregoing provisions are exclusive in respect of the replacement of mutilated, defaced, lost, stolen or destroyed Trust Certificates and 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 and compensation of the

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Trustee, and of all taxes, assessments and governmental charges herein mentioned for which the Trustee may be liable.

SECTION 2. The Company covenants and agrees and guarantees that the bearer or registered owner of each of the Trust Certificates shall receive the par value of one thousand dollars ($1,000), or, in the case of temporary Trust Certificates, the par value therein expressed to be payable, in lawful money of the United States of America, when and as the same shall become due and payable, whether at the maturity thereof or otherwise under the provisions thereof or of this agreement, and shall receive dividends thereon in like money at the dividend rate, from September 1, 1948, to the date of maturity of such Trust Certificate, at the times and place and otherwise as expressed in such Trust Certificate and in the dividend warrants, if any, appurtenant thereto; and the Company further covenants and agrees to endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by the Trustee, its guaranty of the prompt payment 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 the officer of the Company who shall have signed said guaranty shall cease to be such officer of the Company before the Trust Certificates shall have been issued and delivered by the Trustee, or shall not have been such officer on the date of the Trust Certificates, such guaranty shall, nevertheless, be as effective and binding upon the Company as though the person who signed such guaranty had not ceased to be such officer of the Company or had been such officer on the date of the Trust Certificates.

SECTION 3. The Company covenants and agrees that it will pay and discharge or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of any debt, tax, charge,

obligation or 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 debt, tax, charge, obligation or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings unless such contest will, in the judgment of the Trustee, materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates.

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, or connected with the preparation, execution, recording, re-recording, registration, re-registration, filing and refiling 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 to any equipment or parts used to replace any of the same. The Company covenants that prior to the delivery to it of any of the Trust Equipment covered thereby, it will cause this agreement and said lease, and thereafter from time to time any and all supplemental agreements and leases which may be executed pursuant to the terms hereof and of said lease, to be duly filed or recorded in all States wherein are situated railroad lines owned or operated by it or by any corporation a majority of whose stock shall be owned directly or indirectly by the Company or over which the Company or any such corporation has trackage rights, and in all States where any of the Trust Equipment shall be delivered, and in Canada, and otherwise as may be required by law for the full protection of the title of the Trustee and the rights of the holders of the Trust Certificates, so that this agreement and said lease and all said other instruments shall at all times be duly filed and recorded. In like manner the Company will cause this agreement and lease and all supplemental agreements and leases to be re-recorded, re-registered and refiled as may at any time be required by law for such protection.

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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 hereof and thereof.

SECTION 6. The Company covenants that it will make payment of the rentals on account of the Trust Equipment as provided in this agreement and in said lease, notwithstanding that any of the Trust Certificates and dividend warrants shall have been acquired by the Company or shall not have been presented for payment.

SECTION 7. It being contemplated that all of said $2,160,000 of certificates shall be issued forthwith upon the deposit with the Trustee or to its credit as Trustee hereunder, of $2,160,000, in cash, as in Article I, of this agreement provided, the Company covenants that it will pay to the Trustee the said rentals when and as the same shall become due and payable, as in this agreement and in the said lease provided, notwithstanding that any of such payments shall have become so due and payable prior to the delivery under the lease to the Company of any of the said equipment.

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 any of the Trust Certificates or dividend warrants, or for any 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 Company, or in case, at or after maturity, any Trust Certificates or dividend warrants shall be purchased, 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 or 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 par value 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 Sixth of said lease shall happen, the Trustee, in its discretion, may, and upon the written request of the holders of not less than twenty-five per cent. (25%) in par value of the then outstanding Trust Certificates shall, upon being indemnified as hereinafter in Article V provided, by notice in writing to the Company, declare to be due and payable the par value of all the Trust Certificates then outstanding and thereupon the same shall become and be immediately due and payable. In case one or more of said events of default shall happen (whether or not the par value of the Trust Certificates shall have been declared due and payable), then the Trustee may, and upon the written request of the holders of not less than twenty-five per cent. (25%) in par value of the Trust Certificates then outstanding shall, upon being indemnified as hereinafter in Article V provided, take all steps for the protection and enforcement of its rights and the rights of the holders of the Trust Certificates, herein or in said lease provided, 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, the holders of a majority in par value of the Trust Certificates then outstanding from time to time, if and when the Trustee shall have been indemnified as

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thereof shall affect any discretion herein elsewhere or in the lease specifically given to the Trustee to determine whether it shall take action in respect of any such default, or to take action without request. Such discretion, however, is subject to the provisions of Section 2 of Article IV of this agreement, authorizing the holders of a majority in par value of the Trust Certificates to direct whether action shall be taken or omitted by the Trustee to enforce this agreement or said lease.

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 twenty-five per cent. (25%) in aggregate par value of the then outstanding Trust Certificates shall have been made upon the Trustee, indemnity satisfactory to it has been provided, and ninety (90) days have elapsed for action by the Trustee upon such request, it shall decline, fail or neglect to institute any proceedings pursuant thereto; nor shall any such holder have any such right if the holders of a majority in par value of the Trust Certificates shall have directed that no action be taken.

SECTION 7. The Trustee may, for all purposes, conclusively assume that the Company is not in default under the terms hereof or of said lease until notified in writing to the contrary by the holders of at least ten per cent (10%) in aggregate par value of the Trust Certificates

any default on the part of the manufacturers thereof or of the vendor, nor shall anything herein or in the lease be construed as a warranty on the part of the Trustee in respect thereof or as its representation in respect of the value thereof or in respect of the title thereto.

The Trustee may perform its powers and duties hereunder and under the lease by or through such attorneys, agents and servants as it shall appoint, and shall be entitled to rely upon the advice of counsel (who may be of counsel for the Company) and shall be protected by the advice of such counsel in anything reasonably done or omitted to be done by it 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, for wrongful acts, negligence or defaults of its officers or directors.

The Trustee shall not be responsible in any way for the recitals herein or in the lease contained or for the execution or validity of this agreement or of the lease or of the Trust Certificates, or the guaranty by the Company, or for any mistake of fact or law.

The Trustee shall be entitled to receive payment of all of its expenses and disbursements hereunder and under the lease, including counsel fees, and to receive reasonable compensation for all services rendered by it in the execution of the trust hereby created, all of which shall be paid by the Company; or, in default of such payment, out of the rentals or proceeds or avails of the Trust Equipment.

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The Trustee in its individual capacity may own, hold and dispose of Trust Certificates and dividend warrants with the same rights which it would have if it were not Trustee.

SECTION 10. If at any time the Trustee or any successor to it in the trust hereby created shall desire to divest itself of title to the Trust Equipment, and to terminate its duties and obligations and rights under this agreement, the lease and the Trust Certificates, it shall so notify the Company in writing and the Company shall thereupon designate in writing to the Trustee a national bank or a trust company, qualified as below specified, to serve until a successor is appointed by the holders of Trust Certificates as hereinafter provided and to which may be assigned the entire right, title and interest of the Trustee or such successor in the Trust Equipment, and in which may be vested the rights, powers, duties and obligations of the trust under this agreement, the lease and the Trust Certificates. Upon the transfer and delivery of all moneys and Trust Equipment held by the Trustee or any such successor and the payment of its compensation and expenses, and the execution by the retiring trustee of such instruments of transfer as may reasonably be requested by the successor trustee, and upon acceptance by the successor trustee of the assignment and of the trust, the retiring trustee shall be relieved and discharged of all the title, rights, powers, duties and obligations of the trust under this agreement, the lease and the Trust Certificates, and the same shall become vested in such successor trustee, and every provision of this agreement and the lease applicable to the retiring trustee shall apply to such successor trustee with like effect as if originally named herein in the place and stead of the party of the second part. In the event that the Company shall fail to designate such a successor trustee by instrument in writing delivered to the retiring trustee within two weeks from the date of receiving such notice in writing from the retiring trustee, the retiring trustee may thereupon designate such successor trustee. The foregoing provisions are, however, subject to the right of the holders of the majority in par value of the Trust Certificates then outstanding by an instrument in writing to appoint any successor trustee, if such appoint-

ment is made within one year from the date of the giving of such notice to the Company. The Company will execute all such writings recognizing the transfer of title as aforesaid and all such instruments of further assurance or otherwise as may be requested by the successor trustee in the premises, and will do and perform any and all acts necessary to establish and maintain the title and rights of the successor trustee in and to the Trust Equipment. Every successor trustee shall be a national bank or a trust company doing business in the Borough of Manhattan, City and State of New York, having a capital and surplus aggregating at least five million dollars ($5,000,000), if there be such national bank or trust company willing and able to accept the trust upon reasonable and customary terms.

Any corporation resulting from any merger or consolidation to which the Trustee, or any successor to it, shall be a party, or any corporation in any manner succeeding to the business of the Trustee or any successor trustee, as a whole or substantially as a whole, provided such corporation shall be a corporation organized under the laws of the United States of America, or of the State of New York, and shall do business in the Borough of Manhattan, City and State of New York, and have a capital and surplus aggregating at least five million dollars ($5,000,000), shall be the successor trustee under this agreement and said lease 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 said lease, 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, said lease 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 said lease 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 of said lease and the issue of such Trust Certificates and dividend warrants.

ARTICLE VII.

Any demand or request or other instrument provided for by this agreement or said lease to be signed or executed by holders of Trust Certificates may be in any number of concurrent writings of similar tenor and may be signed or executed by such holders in person or by agent appointed in writing. Proof of the execution of any such demand, request or other instrument, or of the writing appointing any such agent, and of the ownership by any person of any Trust Certificate not registered as to par value, shall be sufficient for any purpose of this agreement or said lease, and shall be conclusive in favor of the Trustee with regard to any action taken by the Trustee under any such request or other instrument, if such proof be made in the following manner, viz.:

(*a*) the fact and date of the execution by any person of any such demand, request or other instrument in writing may be proved by the certificate of any notary public or of any other officer authorized to take, either within or without the State of New York, acknowledgments of deeds to be recorded in the State of New York, or in the State where the acknowledgment may be taken, certifying that the person signing such demand, request or other instrument acknowledged to him the execution thereof; or by the affidavit of a witness to such execution;

(*b*) the fact of the holding by any holder of any Trust Certificate not registered as to par value and the amounts and numbers of such Trust Certificates, and the date of his holding the same, may be proved either by producing and exhibiting to the Trustee the actual Trust Certificates themselves, or by a certificate executed by any trust company, bank, banker or other depositary, wherever situated, if such 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 the Trust Certificates described in such certificate. The Trustee may consider such ownership as continuing until it shall receive proof satisfactory to it to the contrary.

The ownership of Trust Certificates registered as to par value shall be determined by the registry books to be kept as provided in Section 3 of Article V hereof.

ARTICLE VIII.

At the termination of said lease to the Company, any moneys remaining in the hands of the Trustee, after paying the par value of and dividends upon the Trust Certificates, with such interest, if any, as may be payable thereon, and the expenses of the Trustee, including its reasonable compensation and counsel fees, 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 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 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 First National Bank of the City of New York, and any successor trustee hereunder; the word "Company" to mean and include the party of the third part, its successors and assigns; and the words "holder" or "owner" 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.

The Vendor shall incur no liability hereunder or under any bill of sale or certificate executed by it as herein provided or for anything other than its own individual default, misconduct or gross neglect. The Vendor shall be entitled to the advice of counsel (who may be counsel to the Company) and shall be protected by the advice of such counsel in anything done or omitted to be done by it in accordance with such advice.

Whenever, under the provisions hereof or of the lease, 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 by depositing a written statement thereof, securely enclosed in a postpaid wrapper, in the United States mail, directed to the Company at 175 East Fourth Street, St. Paul, Minn., 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 or 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.

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

IN WITNESS WHEREOF, the Vendor, the Trustee and the Company 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.

BURLINGTON EQUIPMENT COMPANY,

By ..... *President.*

(CORPORATE SEAL)

Attest:

..... *Secretary.*

Signed, sealed and delivered by BURLINGTON EQUIPMENT COMPANY in the presence of:

.....

.....

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,

By ..... *Vice-President.*

(CORPORATE SEAL)

Attest:

..... *Assistant Cashier.*

Signed, sealed and delivered by THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK in the presence of:

.....

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GREAT NORTHERN RAILWAY COMPANY,

By ..... *Vice-President.*

(CORPORATE SEAL)

Attest:

..... *Secretary.*

Signed, sealed and delivered by GREAT NORTHERN RAILWAY COMPANY in the presence of:

.....

.....

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

BE IT REMEMBERED that on this the 1st day of September, 1948, before me, the undersigned officer and authority, duly [illegible], a Notary Public in and for said County of Cook, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds or conveyances of lands, tenements and hereditaments in said state, and in the presence of the undersigned witnesses, both males of lawful age, personally came and appeared R. W. COGLAN, President, and A. D. MCLANE, Secretary, of Burlington Equipment Company, the corporation of that name described in and which executed the within and foregoing instrument, both being to me personally known, and known to be such President and Secretary, respectively, of said corporation, and to be the same persons who now have signed, executed and acknowledged the foregoing 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 the said R. W. COGLAN and A. D. MCLANE, being by me duly severally sworn, on oath stated, and did severally depose and say and acknowledge in the presence of said witnesses, that said R. W. COGLAN resides in the City of Chicago, in the State of Illinois, and that said A. D. MCLANE resides in the City of La Grange, in the State of Illinois; that said R. W. COGLAN is President, and said A. D. MCLANE is the Secretary, of Burlington Equipment Company, one of the corporations described in and which executed the above instrument; that they, the said R. W. COGLAN, President, and said A. D. MCLANE, Secretary, know the corporate seal of said corporation; that the seal affixed to said instrument is the corporate seal of said corporation; that it was so affixed thereto by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to, and were authorized to execute, the foregoing instrument, in their respective capacities as President and Secretary, in behalf of said corporation, by like order and authority; that they, being so authorized to do, executed the foregoing instrument by signing the name of said corporation by themselves as President and Secretary, respectively; that they signed and executed the same 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 mentioned, contained, stated and set forth; and they severally duly acknowledged said instrument to be the free and voluntary act and deed of said corporation; that said corporation executed the said instrument, and that said instrument was by said corporation voluntarily executed.

GIVEN under my hand and official seal, and in witness whereof I have hereunto set my hand and affixed my official seal, this 1st day of September, 1948. My commission and term of office as Notary Public expire on

MY COMMISSION EXPIRES
JUNE 9, 1949

Appearers:
R. W. COGLAN
A. D. MCLANE

Witnesses:

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

BE IT REMEMBERED that on this the 2ND day of September, 1948, before me, the undersigned officer and authority, WALTER C. LOSI, a Notary Public in and for said County of New York, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds or conveyances of lands, tenements and hereditaments in said state, and in the presence of the undersigned witnesses, both males of lawful age, personally came and appeared Henry S. Sturgis, Vice President, and EDWIN THORNE, Assistant Cashier, of The First National Bank of the City of New York, the corporation of that name described in and which executed the within and foregoing instrument, both being to me personally known, and known to be such Vice President and Assistant Cashier, respectively, of said corporation, and to be the same persons who now have signed, executed and acknowledged the foregoing instrument, as such Vice President and Assistant Cashier, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and the said Henry S. Sturgis and EDWIN THORNE, being by me duly severally sworn, on oath stated, and did severally depose and say and acknowledge in the presence of said witnesses, that said Henry S. Sturgis resides at CHAUNCEY LANE in the VILLAGE of CEDARHURST, in the County of NASSAU, State of NEW YORK, and that said EDWIN THORNE resides at NORTH ST., in the TOWN of GREENWICH, in the County of FAIRFIELD State of CONNECTICUT; that said Henry S. Sturgis is a Vice President, and said EDWIN THORNE is an Assistant Cashier, of The First National Bank of the City of New York, one of the corporations described in and which executed the above instrument; that they, the said Henry S. Sturgis, Vice President, and said EDWIN THORNE, Assistant Cashier, know the corporate seal of said corporation; that the seal affixed to said instrument is the corporate seal of said corporation; that it was so affixed thereto by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to, and were authorized to execute, the foregoing instrument, in their respective capacities as Vice President and Assistant Cashier, in behalf of said corporation, by like order and authority; that they, being so authorized to do, executed the foregoing instrument by signing the name of said corporation by themselves as Vice President and Assistant Cashier, respectively; that they signed and executed the same 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 mentioned, contained, stated and set forth; and they severally duly acknowledged said instrument to be the free and voluntary act and deed of said corporation; that said corporation executed the said instrument, and that said instrument was by said corporation voluntarily executed.

GIVEN under my hand and official seal, and in witness whereof I have hereunto set my hand and affixed my official seal, this 2ND day of September, 1948. My commission and term of office as Notary Public expire on MAR 3 0 1949

Appearers:

Henry S. Sturgis

EDWIN THORNE

Witnesses:

Walter C. Losi

WALTER C. LOSI
NOTARY PUBLIC in the State of New York
Residing in New York County
N. Y. Co. Clk's No. 419, Reg. No. 855-L-9
Commission Expires March 30, 1949

Form 1

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

No. 55973

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 Walter C. Losi 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 official character, 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 14 day of Sept. 194

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

FEE PAID 25¢

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

BE IT REMEMBERED that on this the 1st day of September, 1948, before me, the undersigned officer and authority, N J Ogden, a Notary Public in and for said County of Cook, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds or conveyances of lands, tenements and hereditaments in said state, and in the presence of the undersigned witnesses, both males of lawful age, personally came and appeared V. P. TURNBURKE, Vice President, and F. L. PAETZOLD, Secretary, of Great Northern Railway Company, the corporation of that name described in and which executed the within and foregoing instrument, both being to me personally known, and known to be such Vice President and Secretary, respectively, of said corporation, and to be the same persons who now have signed, executed and acknowledged the foregoing 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 the said V. P. TURNBURKE and F. L. PAETZOLD, being by me duly severally sworn, on oath stated, and did severally depose and say and acknowledge in the presence of said witnesses, that said V. P. TURNBURKE resides in the City of St. Paul, in the State of Minnesota, and that said F. L. PAETZOLD resides in the City of St. Paul, in the State of Minnesota; that said V. P. TURNBURKE is Vice President, and said F. L. PAETZOLD is the Secretary, of Great Northern Railway Company, one of the corporations described in and which executed the above instrument; that they, the said V. P. TURNBURKE, Vice President and said F. L. PAETZOLD, Secretary, know the corporate seal of said corporation; that the seal affixed to said instrument is the corporate seal of said corporation; that it was so affixed thereto by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to, and were authorized to execute, the foregoing instrument, in their respective capacities as Vice President and Secretary, in behalf of said corporation, by like order and authority; that they, being so authorized to do, executed the foregoing instrument by signing the name of said corporation by themselves as Vice President and Secretary, respectively; that they signed and executed the same 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 mentioned, contained, stated and set forth; and they severally duly acknowledged said instrument to be the free and voluntary act and deed of said corporation; that said corporation executed the said instrument, and that said instrument was by said corporation voluntarily executed.

GIVEN under my hand and official seal, and in witness whereof I have hereunto set my hand and affixed my official seal, this 1st day of September, 1948. My commission and term of office as Notary Public expire on

MY COMMISSION EXPIRES
JUNE 11, 1950

Appearers:
V. P. TURNBURKE
F. L. PAETZOLD

N J Ogden

Witnesses:

J. V. Wolfe

C. A. Bick

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Executed in 25 Counterparts
Counterpart No. 9 (a)

GREAT NORTHERN RAILWAY EQUIPMENT TRUST OF 1948

Agreement

Dated September 1, 1948

BETWEEN

BURLINGTON EQUIPMENT COMPANY,
Vendor,

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,
Trustee,

AND

GREAT NORTHERN RAILWAY COMPANY

Lease

Dated September 1, 1948

FROM

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,
Trustee,

TO

GREAT NORTHERN RAILWAY COMPANY

LEASE OF RAILROAD EQUIPMENT, dated September 1, 1948, between THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, 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 GREAT NORTHERN RAILWAY COMPANY, a corporation duly organized and existing under the laws of the State of Minnesota (hereinafter called the "Company"), party of the second part:

WHEREAS, by a certain agreement dated September 1, 1948, by and between Burlington Equipment Company, Vendor, said The First National Bank of the City of New York, as Trustee, and said Great Northern Railway Company, a counterpart original whereof is hereto prefixed and made a part hereof, there was constituted the "Great Northern Railway Equipment Trust of 1948," under which the railroad equipment which said Vendor has agreed to transfer or cause to be transferred to the Trustee thereunder is to be leased by the Trustee to the Company; 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, THEREFORE, THIS AGREEMENT WITNESSETH:

That the Trustee (acting in pursuance of said agreement), for and in consideration of the sum of one dollar to it in hand paid by the Company at or before the ensealing and delivery hereof, the receipt of which is hereby acknowledged, and 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

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the following railroad equipment of the Great Northern Railway Equipment Trust of 1948, to wit:

Number of Units:	*Description of Equipment:*	*Name of Builder:*
500	40′ 6″ 50-ton steel-frame double-sheathed box cars. Numbers 18000 to 18499, inclusive. Estimated cost $5,400 each.	Great Northern Railway Company.

together with such additional railroad equipment as may be acquired for said trust and subjected to this lease as hereinafter provided (hereinafter collectively called the Trust Equipment).

The cost of the railroad equipment above specifically described, when completed, is estimated by the Company to be approximately $2,700,000.

In case the actual cost of said equipment specifically described above shall not amount to at least $2,700,000, then, in accordance with the provisions of said agreement, in addition to that equipment, there is to be acquired by said Vendor other new standard-gauge rolling stock of substantially as good material and construction, and approved as to character by the Company, of such cost that the aggregate cost of all the Trust Equipment will be at least $2,700,000, and such additional equipment shall be subjected to this lease, in accordance with the provisions of Section 5 of Article I of said agreement; 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 any of 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 Third hereof, the same shall be delivered by the Trustee to the Company at the same

point or points of delivery provided for in Section 1 of Article I of said agreement and shall upon such delivery to the Company, *ipso facto* and without further deed of lease or transfer, pass under and become subject to all the terms and provisions of this lease, and be deemed a portion of the Trust Equipment leased by the Trustee to the Company hereunder in all respects as if the same had been so delivered simultaneously with the execution and delivery hereof.

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

ARTICLE 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 (except as in this Article First otherwise provided) or its assigns, rent hereunder which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable (whether or not any of such items shall become due and payable prior to the delivery under this lease of the Trust Equipment or any thereof):

A. From time to time, as provided in said agreement, the Company shall pay to the Trustee, as advance rental under this lease, sums which in the aggregate shall be equal to the difference between the total cost of the Trust Equipment and the net proceeds of the subscriptions (as defined in Section 2 of Article I of said agreement), the intention being that when all of the Trust Equipment shall have been delivered to the Trustee, the Company shall have paid or shall pay to the Trustee, as advance rental under this lease, a sum equal to the amount by which the entire cost of the Trust Equipment, as certified to pursuant to the provisions of Section 5 of Article I of said agreement, exceeds the net proceeds of the subscriptions and in no event less than twenty per cent. (20%) of the aggregate cost of the Trust Equipment. The Company agrees to pay such advance rental as follows:

(1) Upon the deposit with the Trustee of the amount of the net proceeds of the subscriptions, a sum which when added to such amount will make the total sum deposited with the Trustee equal to $2,160,000;

(2) Upon delivery of any of the Trust Equipment to the Trustee, amounts equal to the cost of such equipment in excess of the portion, if any, of such cost payable out of Deposited Cash, and being not less than twenty per cent. (20%) of such cost.

B. In addition to such advance rental the Company shall pay to the Trustee (or, in the case of taxes, assessments or other governmental charges, to the proper governmental authority), from time to time as below provided, as rental for the Trust Equipment, and whether or not at the time any thereof shall have been delivered to the Company, the following:

(*a*) The necessary and reasonable expenses of the trust, including compensation and expenses, provided for in said agreement and all expenses connected with the Trust Equipment and this lease thereof; and expenses or liabilities for any other amounts incurred or sustained in connection with any purchase or sale of obligations of the United States of America pursuant to the provisions of Section 6 of Article I of said Agreement; and any sums which shall be required to restore to Deposited Cash, in accordance with said provisions of Section 6 of Article I of said Agreement, the full amount or amounts thereof which shall have been invested in obligations of the United States of America;

(*b*) The amount of any and all taxes, assessments and other governmental charges assessed or levied upon or on account of the income or property of the trust, or said agreement and this lease evidencing the same, which the Trustee as such under said agreement may be required to pay.

(*c*) The amount of the dividend warrants appurtenant to the Trust Certificates, or, in the case of the issue of temporary Trust Certificates without dividend warrants, the amount of the dividends payable thereon, on the respective dates on which such dividend warrants or dividends shall severally become payable; also a sum equal to interest at the dividend rate, from the due date, upon the amount of any

installments of rental payable under this subparagraph (*c*) and the following sub-paragraph (*d*) theretofore due and unpaid.

(*d*) The amount of the par value of the Trust Certificates, when and as the same shall become payable, whether upon the respective dates of maturity thereof or otherwise under the provisions thereof or of said agreement.

The Company shall not be required, however, to pay any amount in respect of 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.

All payments of rental hereunder shall be made at the office of the Trustee in the Borough of Manhattan, City and State of New York, in lawful money of the United States of America.

ARTICLE SECOND.

This lease shall continue in force until the rent paid hereunder shall furnish monies sufficient to meet, discharge, and cancel all the interests of the Trustee and the holders of the Trust Certificates in said Great Northern Railway Equipment Trust of 1948, created in respect of the Trust Equipment. At the termination of this lease and after all payments due or to become due from the Company hereunder and under said agreement shall have been completed and fully made to the Trustee, (1) such payments shall be applied and treated as purchase money and as the full purchase price of the Trust Equipment, (2) title to all of the Trust Equipment shall vest in the Company, and (3) thereupon the Trustee shall execute for record or filing in public offices, such instrument or instruments in writing as reasonably shall be requested by the Company in order to transfer to the Company all of the right, title and interest of the Trustee in and to all of the Trust Equipment; provided, however, and it is hereby 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

formed, 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 (subject to the provisions of Section 2 of Article IV of said agreement with respect to the authority of the holders of a majority in par value of the Trust Certificates to direct and control the action of the Trustee) in its discretion, may, and upon the written request of the holders of not less than twenty-five per cent. (25%) in par value of the then outstanding Trust Certificates shall, by notice in writing to the Company, declare to be due and payable forthwith the entire amount of the rentals (including any unpaid advance rental) payable by the Company as set forth in Article First of this lease, and not theretofore paid; and thereupon the entire amount of said rentals shall become and shall be due and payable immediately, without further demand, together with interest at the dividend warrant rate on any portion thereof overdue and with interest at the dividend warrant rate from the last preceding dividend date to the date of such declaration on all installments of rental not yet due on such date of declaration, representing the amount of the par value of outstanding trust certificates; and for the total amount so becoming forthwith pay-

age or other charges of any kind earned by the Trust Equipment or any part thereof, and may lease the Trust Equipment or any part thereof, or with or without retaking possession thereof (but only after making the declaration hereinabove provided for) may sell the same or any unit thereof, free from any and all claims of the Company at law or in equity, in one lot and as an entirety, or in separate lots, 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 holders of the Trust Certificates under said agreement and under this lease in the manner therein and herein provided. Any such sale or sales may be held or conducted at such place or places and at such time or times as the Trustee may specify, or as may be required by law, and without gathering at the place of sale the Trust Equipment to be sold, and in general in such manner as the Trustee may determine, but so that the Company may and shall have a reasonable opportunity to bid at such sale.

Upon such taking possession or withdrawal or lease or sale of the Trust Equipment, the Company shall cease to have any rights or remedies in respect of the Trust Equipment under this lease, and all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Company, and no payments theretofore

made by the Company for the rent or use of the Trust Equipment or any of it shall, in case of the happening of any such event of default and such taking possession, withdrawal, lease or sale by the Trustee, give to the Company any legal or equitable interest or title in or to the Trust Equipment or any of it or any cause or right of action, at law or in equity, in respect of the Trust Equipment against the Trustee or the holders of the Trust Certificates. No such taking possession or withdrawal or lease or sale of the Trust Equipment by the Trustee shall be a bar to the recovery by the Trustee from the Company of rentals then or thereafter due and payable, and the Company shall be and remain liable for the same, until such sums shall have been realized 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 Article First hereof, whether they shall have then matured or not.

If the Trustee shall exercise any of the powers or remedies conferred upon it hereunder, the 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 or otherwise disposed of by the Trustee to others, to be transferred and conveyed by the Trustee to the Company, free from any further liabilities or obligations to the Trustee hereunder.

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 shall, at its own expense, forthwith and in the usual manner, cause the Trust Equipment to be moved to such point or points on said railroads as shall be designated by the Trustee and shall there deliver or cause to be delivered the same to the Trustee; or, at the option of the Trustee, the Trustee 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 facilities at any convenient point or points selected by the Trustee. It is hereby expressly covenanted and agreed that the performance of the foregoing covenants is of the essence of the contract and that, upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

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.

ARTICLE SEVENTH.

The Company, during the continuance of this lease, shall maintain and keep all of the Trust Equipment in good order and proper repair, at its own cost and charge, and shall cause to be replaced, at its own cost, any of the Trust Equipment that may be released as hereinafter in this Article provided, worn out, unsuitable for use, lost, or destroyed, by new standard-gauge rolling stock of substantially as good material and construction and of a value at least equal to the fair value at the time when the obligation to replace shall arise, of the equipment so released, worn out, unsuitable for use, lost or destroyed, the value of the new rolling stock to be figured at cost if that be below market value, or at market value if that be below cost; provided, however, that the Company may, pending such replacement, deposit with the Trustee, in trust for the benefit of the holders of the Trust Certificates, cash to an amount equal to such fair value of the equipment so released, worn out, unsuitable for use, lost, or destroyed, such fair value to be determined and any moneys so deposited to be held and applied as hereinafter in this Article provided. The rights and remedies of the Trustee to enforce or to recover any of the rental payments shall not be affected by reason of such release, wearing out, unsuitableness for use, loss or destruction.

The title to all rolling stock procured for such replacement shall be taken in the name of the Trustee, free from liens and encumbrances, which shall receive the same from some manufacturer or seller of the rolling stock other than the Company; and such rolling stock shall be marked in accordance with the provisions of Article Third hereof. At the time of every such replacement the Company shall deliver or cause to be delivered to the Trustee a certificate or certificates of the President or a Vice-President of the Company stating such fair value of the Trust Equipment so released, worn out, unsuitable for use, lost, or destroyed and the cost and market value of such new equipment (and such certificate or certificates shall be full and complete protection to the Trustee), together with a bill or bills of sale from some manufacturer or seller thereof other than the Company to the Trustee, an opinion of counsel (who may be of counsel for the Company) satisfactory to the Trustee and a certificate as to delivery, in like manner as is provided in Section 5 of Article I of said agreement. Thereupon the Trustee shall execute to the Company a supplemental lease of such new equipment, describing the same, and such new equipment shall be deemed part of the Trust Equipment, subject to all of the terms and conditions hereof and of said agreement as though it had been part of the original Trust Equipment.

The Company shall promptly and fully inform the Trustee with regard to any loss or destruction of any of the rolling stock, and with regard to any substantial repairs made or being made upon it, or any of it.

It being desirable in the interest of both parties to this lease that any of the Trust Equipment, which in any respect shall have become worn out, or unsuitable for the use of the Company, should be released and promptly sold and replaced, it is hereby mutually understood and agreed that at any time hereafter until title thereto shall become vested in the Company, the Trustee will sell any such units of the Trust Equipment then subject to this lease, upon the written request of the Company, signed by the President, or a Vice-President, or the Treasurer or an Assistant Treasurer of the Company, accompanied by a certified

copy of a resolution of its Board of Directors or Executive Committee, authorizing such request, describing such units and reciting that they have become worn out or unsuitable for the use of the Company, stating the selling price thereof and specifying the original cost and the fair value thereof at the time of such request; provided, however, that the proceeds of such sale or sales, and any money paid to the Trustee as in the first paragraph of this Article provided, shall be received by the Trustee in trust for the benefit of the holders of the Trust Certificates pending replacement of such Trust Equipment, and upon the written request of the Company, signed in like manner, shall be applied to the purchase by the Trustee of such new standard-gauge rolling stock of value at least equal to such fair value of the equipment replaced, and of substantially as good material and construction, as shall be specified in writing by the Company. Such new rolling stock shall be treated as hereinabove provided for replacements, and shall become and shall be subject to this lease and said agreement and to all the terms and conditions hereof and thereof.

No sale of any unit of Trust Equipment hereunder shall be made by the Trustee for less than the fair value of said unit at the time of sale unless and until the Company shall have deposited with the Trustee the difference between the price at which it is to be sold and such fair value.

For all purposes under this Article the fair value of any unit of Trust Equipment to be replaced shall be considered to be the cost thereof, determined as herein provided, less five per cent (5%) of said cost for each full year during which this lease and said agreement have run prior to the date at which the fair value is so to be determined.

A certificate signed by the President or a Vice-President or the Treasurer or an Assistant Treasurer of the Company, setting forth the facts necessary to be known by the Trustee before taking action under this Article, and that the method employed in arriving at the fair value of any equipment was that provided for in this Article, may be received by the Trustee as conclusive evidence of the statements therein contained. The Trustee shall incur no liability or responsibility whatever

by reason of any action taken or suffered in reliance on any such certificate.

ARTICLE EIGHTH.

This lease may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original.

ARTICLE NINTH.

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

In Witness Whereof, the Trustee, 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 First National Bank of the City of New York,

By ..... *Vice-President.*

(corporate seal)

Attest:

..... *Assistant Cashier.*

Signed, sealed and delivered by THE FIRST NATIONAL BANK OF THE CITY OF NEW York in the presence of:

.....

.....

Great Northern Railway Company,

By ..... *Vice-President.*

(corporate seal)

Attest:

..... *Secretary.*

Signed, sealed and delivered by GREAT NORTHERN RAILWAY COMPANY in the presence of:

.....

.....

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

BE IT REMEMBERED that on this the 2ND day of September, 1948, before me, the undersigned officer and authority, WALTER C. LOSI, a Notary Public in and for said County of New York, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds or conveyances of lands, tenements and hereditaments in said state, and in the presence of the undersigned witnesses, both males of lawful age, personally came and appeared Henry S. Sturgis, Vice President, and EDWIN THORNE, Assistant Cashier, of The First National Bank of the City of New York, the corporation of that name described in and which executed the within and foregoing instrument, both being to me personally known, and known to be such Vice President and Assistant Cashier, respectively, of said corporation, and to be the same persons who now have signed, executed and acknowledged the foregoing instrument, as such Vice President and Assistant Cashier, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and the said Henry S. Sturgis and EDWIN THORNE, being by me duly severally sworn, on oath stated, and did severally depose and say and acknowledge in the presence of said witnesses, that said Henry S. Sturgis resides at CHAUNCEY LANE in the VILLAGE of CEDARHURST L.I. in the County of NASSAU State of NEW YORK and that said EDWIN THORNE resides at NORTH ST. in the TOWN of GREENWICH, in the County of FAIRFIELD State of CONNECTICUT; that said Henry S. Sturgis is a Vice President, and said EDWIN THORNE is an Assistant Cashier, of The First National Bank of the City of New York, one of the corporations described in and which executed the above instrument; that they, the said Henry S. Sturgis, Vice President, and said EDWIN THORNE, Assistant Cashier, know the corporate seal of said corporation; that the seal affixed to said instrument is the corporate seal of said corporation; that it was so affixed thereto by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to, and were authorized to execute, the foregoing instrument, in their respective capacities as Vice President and Assistant Cashier, in behalf of said corporation, by like order and authority; that they, being so authorized to do, executed the foregoing instrument by signing the name of said corporation by themselves as Vice President and Assistant Cashier, respectively; that they signed and executed the same 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 mentioned, contained, stated and set forth; and they severally duly acknowledged said instruments to be the free and voluntary act and deed of said corporation; that said corporation executed the said instrument, and that said instrument was by said corporation voluntarily executed.

GIVEN under my hand and official seal, and in witness whereof I have hereunto set my hand and affixed my official seal, this 2ND day of September, 1948. My commission and term of office as Notary Public expire on MAR 3 0 1949

Appearers:
Henry S. Sturgis
EDWIN THORNE

Witnesses:
T. Connolly
Edwards

Walter C. Losi

WALTER C. LOSI
NOTARY PUBLIC in the State of New York
Residing in New York County
N. Y. Co. Clk's No. 419, Reg. No. 855-L-9
Commission Expires March 30, 1949

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

BE IT REMEMBERED that on this the 1st day of September, 1948, before me, the undersigned officer and authority, W. J. Ogden, a Notary Public in and for said County of Cook, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds or conveyances of lands, tenements and hereditaments in said state, and in the presence of the undersigned witnesses, both males of lawful age, personally came and appeared V. P. Turnburke, Vice President, and F. L. Paetzold, Secretary, of Great Northern Railway Company, the corporation of that name described in and which executed the within and foregoing instrument, both being to me personally known, and known to be such Vice President and Secretary, respectively, of said corporation, and to be the same persons who now have signed, executed and acknowledged the foregoing 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 the said V. P. Turnburke and F. L. Paetzold, being by me duly severally sworn, on oath stated, and did severally depose and say and acknowledge in the presence of said witnesses, that said V. P. Turnburke resides in the City of St. Paul, in the State of Minnesota, and that said F. L. Paetzold resides in the City of St. Paul, in the State of Minnesota; that said V. P. Turnburke is Vice President and said F. L. Paetzold is the Secretary, of Great Northern Railway Company, one of the corporations described in and which executed the above instrument; that they, the said V. P. Turnburke, Vice President, and said F. L. Paetzold, Secretary, know the corporate seal of said corporation; that the seal affixed to said instrument is the corporate seal of said corporation; that it was so affixed thereto by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to, and were authorized to execute, the foregoing instrument, in their respective capacities as Vice President and Secretary, in behalf of said corporation, by like order and authority; that they, being so authorized to do, executed the foregoing instrument by signing the name of said corporation by themselves as Vice President and Secretary, respectively; that they signed and executed the same 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 mentioned, contained, stated and set forth; and they severally duly acknowledged said instrument to be the free and voluntary act and deed of said corporation; that said corporation executed the said instrument, and that said instrument was by said corporation voluntarily executed.

GIVEN under my hand and official seal, and in witness whereof I have hereunto set my hand and affixed my official seal, this 1st day of September, 1948. My commission and term of office as Notary Public expire on

MY COMMISSION EXPIRES
JUNE 9, 1949

Appearers:
V. P. Turnburke
F. L. Paetzold

W. J. Ogden

Witnesses:
J. N. Wolfe
C. A. Bisk

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 5th day of
NOVEMBER A. D. 1948 at 10:00
o'clock A.M. and recorded in Vol.
42 of RAILROAD MORTGAGES
on pages 145-171, incl.
Assistant Secretary of State

Executed in 25 Counterparts
Counterpart No. 9

(4)

GREAT NORTHERN RAILWAY EQUIPMENT TRUST OF 1948

Agreement

Dated September 1, 1948

BETWEEN

BURLINGTON EQUIPMENT COMPANY,
Vendor,

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,
Trustee,

AND

GREAT NORTHERN RAILWAY COMPANY

(As amended and supplemented by Agreement dated as of September 1, 1948)

Lease

Dated September 1, 1948

FROM

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,
Trustee,

TO

GREAT NORTHERN RAILWAY COMPANY

(As amended and supplemented by Agreement dated as of September 1, 1948)

THIS AGREEMENT, dated as of September 1, 1948, by and between BURLINGTON EQUIPMENT COMPANY, a corporation duly organized and existing under the laws of the State of Illinois (hereinafter called the "Vendor"), of the first part, THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, a corporation duly organized and existing under the laws of the United States of America, Trustee under Great Northern Railway Equipment Trust of 1948 (hereinafter called the "Trustee"), of the second part, and GREAT NORTHERN RAILWAY COMPANY, a corporation duly organized and existing under the laws of the State of Minnesota (hereinafter called the "Company"), of the third part, witnesseth:

WHEREAS, by a certain agreement, dated September 1, 1948, by and between the Vendor, the Trustee and the Company, there was constituted the Great Northern Railway Equipment Trust of 1948; and

WHEREAS, the parties hereto desire to amend and supplement said agreement as hereinafter more particularly provided;

Now, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree that said agreement is hereby amended and supplemented to read as follows:

"**THIS AGREEMENT**, dated September 1, 1948, by and between BURLINGTON EQUIPMENT COMPANY, a corporation duly organized and existing under the laws of the State of Illinois (hereinafter called the "Vendor"), of the first part, THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, a corporation duly organized and existing under the laws of the United States of America, Trustee as hereinafter mentioned (hereinafter called the "Trustee"), of the second part, and GREAT NORTHERN RAILWAY COMPANY, a corporation duly organized and existing under the laws of the State of Minnesota (hereinafter called the "Company"), of the third part, witnesseth:

WHEREAS, the Company desires to obtain additional rolling stock in order that traffic over its lines may be properly transported, and it

has been deemed expedient to make provision therefor through the medium of an equipment trust; and

WHEREAS, the Vendor has contracted to acquire or will acquire or contract to acquire the railroad equipment specifically described in the lease, as amended and supplemented, from the Trustee to the Company annexed to this agreement, which equipment together with the additional and substituted equipment provided for in this agreement and in said lease is hereinafter called the Trust Equipment; and

WHEREAS, the title to the Trust Equipment is to be vested in the Trustee and is to be retained by the Trustee until transferred under the provisions of said lease; and

WHEREAS, subscriptions have been or are being secured in an aggregate principal amount not exceeding Twelve Million Seven Hundred and Twenty Thousand Dollars ($12,720,000) to a fund to be known as Great Northern Railway Equipment Trust of 1948, which said fund is to be applied by, or upon the written order of, the Vendor in part payment of the cost of said Trust Equipment; the remainder of such cost to be discharged out of advance rentals to be paid by the Company under the terms of this agreement and said lease; and

WHEREAS, the Vendor desires to evidence the rights of the subscribers to said fund by Trust Certificates in substantially the form hereinafter set forth and to secure to said subscribers, or their assigns, the payment of the amount thereof in thirty (30) equal semi-annual installments payable, respectively, on March 1, and September 1, in each year, beginning on March 1, 1949 and ending on September 1, 1963, as hereinafter more particularly provided, with dividends to said dates of maturity, respectively, at the rate of two and three-eighths per cent. (2⅜%) per annum from September 1, 1948, payable semi-annually on March 1, and September 1, in each year;

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

ARTICLE I.

SECTION 1. The Vendor, as speedily as may be, will cause to be built or acquired the Trust Equipment specifically described in the lease from the Trustee to the Company annexed to this agreement, to which lease reference is hereby made, and will sell, assign, transfer and set over or cause to be assigned, transferred and set over said Trust Equipment unto the Trustee, as trustee for the holders of the Trust Certificates hereinafter described, when and as the Trust Equipment (or units thereof) is constructed or completed. The Vendor will deliver or cause to be delivered said Trust Equipment, *f. o. b.* tracks acceptable to the Company to be specified by it, 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 Company, and the certificate of any agent so designated shall be conclusive evidence of such delivery.

The Trustee and the Company shall, simultaneously with the execution of this agreement, execute and deliver the lease of the Trust Equipment annexed hereto, and the Trustee, pursuant to the terms of such lease, shall deliver or cause to be delivered the Trust Equipment when received by it to the Company.

SECTION 2. The Trustee shall at any time, or from time to time, upon written request of the Vendor, and without awaiting the recording, registration or filing of this agreement or of said lease, execute and deliver to the subscriber or subscribers to said fund, as designated in writing by the Vendor, Trust Certificates of an aggregate par value of $12,720,000, and of such maturity or maturities referred to herein as shall be designated in such request, upon the deposit in cash with the Trustee of the net proceeds of the subscriptions to said fund and upon deposit by the Company with the Trustee, in discharge *pro tanto* of advance rental payable by the Company to the Trustee under the aforesaid lease, of such additional amount in cash as will make the total sum deposited not less than $12,720,000, the sum so deposited being here-

inafter referred to as the Deposited Cash. For the purpose of this agreement and said lease the term "net proceeds of the subscriptions" shall not be construed to include any premium or accrued dividends paid by or for account of the subscribers to said fund as part of their subscriptions, but the amount of such premium and such accrued dividends shall, nevertheless, be deposited with the Trustee and be applied by it on account of the first and next succeeding installments of rental payable under subparagraph (*c*) of subdivision B of Article First of said lease.

SECTION 3. 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 held by it in trust for the benefit of the holders of the Trust Certificates, without liability for interest save as may be agreed upon between it and the Company. Any interest accruing upon any such moneys, or interest or income produced by investment of Deposited Cash as provided in Section 6 of Article I hereof shall be paid from time to time to the order of the Company if the Company shall not then be known by the Trustee to be in default hereunder or under said lease.

SECTION 4. From time to time, when and as any of the Trust Equipment shall have been transferred and delivered to the Trustee, and provided that a lease of such delivered equipment shall have been made by the Trustee to the Company, all as in this agreement provided, the Trustee shall, subject to the provisions of Section 5 of this Article I, pay to the Vendor, or upon its written order, out of the Deposited Cash (referred to in Section 2 of this Article I), an amount which, together with all payments previously made out of Deposited Cash, shall equal eighty per cent. (80%) of the aggregate estimated cost, as set forth in said lease, of the Trust Equipment then and theretofore so transferred and delivered to the Trustee, or eighty per cent. (80%) of the aggregate certified cost of the Trust Equipment then and

theretofore so transferred and delivered to the Trustee, as certified to the Trustee pursuant to Section 5 of this Article I, whichever is less.

The Company covenants that, contemporaneously with each such delivery to the Trustee, the Company will pay to the Trustee, as advance rental as provided in the said lease, amounts equal to the cost of such delivered Trust Equipment in excess of the portion, if any, of such cost payable out of the Deposited Cash, and being not less than twenty per cent (20%) of the said cost. Thereupon the Trustee will pay to the Vendor, or upon its written order, by the use of such advance rental, the cost of the delivered Trust Equipment in excess of the portion, if any, of such cost payable out of the Deposited Cash.

SECTION 5. 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 described therein and specified by serial number or numbers, if any, has been delivered to such agent or agents and by such agent or agents delivered to the Company and marked in accordance with the provisions of Article Third of said lease.

(*b*) A bill or bills of sale transferring to the Trustee the Trust Equipment described in said certificate, which bill or bills of sale shall contain or be accompanied by a warranty or guaranty that the title to the Trust Equipment described therein is free from all liens and encumbrances.

(*c*) An opinion of counsel (who may be counsel to the Company), 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 and specified in such opinion, to vest in the Trustee, free from all liens and encumbrances, the title so transferred to the Trustee.

(*d*) A certificate signed by a Vice-President, the Treasurer or an Assistant Treasurer of the Company, stating the cost of such Trust Equipment, determined or tentatively determined as hereinafter provided.

The cost of the Trust Equipment, whenever referred to herein or in said lease, shall mean the actual cost thereof, including only such items as may properly be included in such cost under the accounting rules of the Interstate Commerce Commission. Any certificate as to cost may state that the cost of the Trust Equipment therein referred to is tentatively determined, subject to final determination. Where any certificate as to cost shall state that the cost of the Trust Equipment therein referred to is tentatively determined, the cost of such equipment shall be subject to final determination and such final determination may be evidenced by a certificate or certificates thereafter filed on the basis of which any necessary adjustments shall be made. A final certificate, or final certificates, signed as provided in paragraph (*d*) above, as to the cost of the Trust Equipment shall be delivered to the Trustee by the Vendor and the cost of the Trust Equipment shall be conclusively established by such final certificate or final certificates.

Anything herein or in said lease contained to the contrary notwithstanding, the Trustee shall, for all purposes of this agreement and said lease, accept as the cost of any of the Trust Equipment the respective amounts certified to it pursuant to subdivision (*d*) of this Section 5. In case any certificate furnished pursuant to said subdivision (*d*) shall state that the cost of the equipment therein referred to is tentatively determined subject to final determination, such certificate shall nevertheless be accepted and acted upon by the Trustee on the basis of the tentative cost therein specified, pending adjustment.

If the aggregate final cost of all the Trust Equipment specifically described in said lease should be less than $15,900,000, the Vendor will acquire and transfer or cause to be transferred, to the Trustee, subject to and in compliance with all the terms of this agreement, other new standard-gauge rolling stock (other than work equipment) of sub-

stantially as good material and construction as the equipment specifically provided for in said lease, approved as to character by the Company, of such cost that the aggregate final cost of the Trust Equipment specifically described in said lease and any such other rolling stock (hereinafter sometimes collectively referred to as the original Trust Equipment) will be at least $15,900,000. The term "Trust Equipment" as used herein and in said lease annexed to this agreement shall include any additional rolling stock acquired and transferred to the Trustee under the terms of this Section 5 of Article I.

SECTION 6. Any Deposited Cash, not needed to pay for Trust Equipment delivered or about to be delivered, may upon the written request of the Company, signed by its President, Vice President or Treasurer, be invested or reinvested by the Trustee in such obligations of the United States of America as the Company may designate. Such obligations shall be held by the Trustee as a part of the Deposited Cash; but, upon a like request of the Company, or at any time when the Trustee in its discretion shall deem such action advisable, the Trustee shall sell all or any designated part of the same, and the proceeds shall be held by the Trustee subject to the same provisions hereof as the cash used by it to purchase the obligations so sold. If the proceeds from the sale of any of the obligations shall be less than the purchase price thereof, or if the market value of any obligations so deposited hereunder shall, in the judgment of the Trustee, at any time be less than the cash so invested, in either event the Company shall deposit hereunder with the Trustee cash sufficient to make up the deficiency. Any profit resulting from, or interest or income produced by, such investment shall accrue and be paid to the Company as provided in Section 3 of Article I hereof.

SECTION 7. If as a result of strikes, national shortages, or other causes beyond the control of the Vendor, it may be deemed necessary or desirable to procure for the transportation services of the Company and include in the Trust hereby created other railroad equipment, the

Vendor may cause to be built or acquired, and substitute under the Trust, other new standard-gauge railroad equipment (other than work equipment) of a character approved by the Company. Such other new standard-gauge railroad equipment shall, by supplemental instrument or instruments, be included as part of the Trust Equipment, and shall be subject to all the terms and conditions of this agreement and of said lease in all respects as though it had been part of the original Trust Equipment described in said lease.

SECTION 8. Any Deposited Cash remaining in the hands of the Trustee after the delivery of all of the original Trust Equipment and payment therefor in the manner provided in this agreement, shall be applied by the Trustee toward payment of the next maturing par value of the Trust Certificates then outstanding, when and as the same shall become payable, and to the extent that such payments are so made by the Trustee out of the balance of the Deposited Cash in its hands the next maturing installment of rental payable pursuant to subparagraph (*d*) of subdivision B of Article First of said lease shall be correspondingly reduced.

SECTION 9. Anything in this agreement contained to the contrary notwithstanding, the aggregate par value of the Trust Certificates which may be executed and delivered by the Trustee under this agreement shall not exceed the sum of $12,720,000, except as provided in Section 6 of Article II hereof.

ARTICLE II.

SECTION 1. Each of the Trust Certificates shall represent an interest to the amount of its par value (which shall be one thousand dollars ($1,000) in the case of definitive Trust Certificates) in the trust hereby created, and the holder or registered owner thereof shall be entitled to receive dividends on said amount at the rate of two and three-eighths per cent (2⅜%) per annum, from September 1, 1948, payable semi-annually on the first day of March and the first day of September in

each year, commencing March 1, 1949. The par value of the Trust Certificates shall become due and payable as follows:

March 1, 1949	$424,000
September 1, 1949	$424,000
March 1, 1950	$424,000
September 1, 1950	$424,000
March 1, 1951	$424,000
September 1, 1951	$424,000
March 1, 1952	$424,000
September 1, 1952	$424,000
March 1, 1953	$424,000
September 1, 1953	$424,000
March 1, 1954	$424,000
September 1, 1954	$424,000
March 1, 1955	$424,000
September 1, 1955	$424,000
March 1, 1956	$424,000
September 1, 1956	$424,000
March 1, 1957	$424,000
September 1, 1957	$424,000
March 1, 1958	$424,000
September 1, 1958	$424,000
March 1, 1959	$424,000
September 1, 1959	$424,000
March 1, 1960	$424,000
September 1, 1960	$424,000
March 1, 1961	$424,000
September 1, 1961	$424,000
March 1, 1962	$424,000
September 1, 1962	$424,000
March 1, 1963	$424,000
September 1, 1963	$424,000
Total	$12,720,000

The due date of each Trust Certificate shall appear upon its face. Definitive Trust Certificates shall be numbered from 1 consecutively upwards to 12,720 both inclusive.

Dividend warrants evidencing the right of the holders of the definitive Trust Certificates to the dividends thereon, shall be annexed to the respective Trust Certificates. All dividends on the respective Trust Certificates shall cease after the par value thereof shall have become due unless payment thereof shall not be duly made upon demand.

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

[FORM OF TRUST CERTIFICATE]

$1,000 No.....

GREAT NORTHERN RAILWAY

EQUIPMENT TRUST OF 1948

2⅜% EQUIPMENT TRUST CERTIFICATE.

Total Issue—$12,720,000

Dividends at the Rate of Two and Three-Eighths Per Cent.

Per Annum, Payable March 1 and September 1.

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, TRUSTEE.

Par Value Payable 1, 19 .

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, TRUSTEE, under an agreement dated September 1, 1948, by and between Burlington Equipment Company, of the first part, The First National Bank of the City of New York, Trustee, of the second part, and Great Northern Railway Company, of the third part, as amended and supplemented by an agreement, dated as of September 1, 1948, by and between said Burlington Equipment Company, said Trustee and said Great Northern Railway Company (said agreement, dated September 1, 1948 as so amended and supplemented being herein referred to as the "agreement"), hereby certifies that the bearer, or, if this certificate be registered as to par value, the registered owner hereof, is entitled to an interest of the par value of One Thousand Dollars ($1,000) in the Great Northern Railway Equipment Trust of 1948, and, as hereinafter more

fully provided, is entitled to the payment of said sum on 1, 19 , upon surrender of this certificate to the undersigned at its office in the Borough of Manhattan, City and State of New York, and to payment, until and including said last mentioned date, of dividends on said sum at the rate of two and three-eighths per centum (2⅜%) per annum from September 1, 1948, semi-annually on March 1 and September 1 in each year, according to the tenor of the dividend warrants hereto annexed, upon presentation and surrender of such warrants, as they severally mature, to the undersigned at its said office; both the par value of this certificate and the dividends thereon being payable at said office in lawful money of the United States of America, but only from and out of rentals received by the undersigned pursuant to the provisions of the agreement, and of a certain lease of railroad equipment made by The First National Bank of the City of New York, Trustee, to Great Northern Railway Company, dated September 1, 1948, as amended and supplemented by an agreement, dated as of September 1, 1948, by and between said Trustee and said Great Northern Railway Company (said lease as so amended and supplemented being herein referred to as the "lease"), or from and out of other moneys received by the Trustee as provided in the agreement or lease.

This certificate is one of an issue of twelve thousand seven hundred and twenty (12,720) certificates for One Thousand Dollars ($1,000) each, similar except as to dates of maturity, all issued or to be issued under and subject to the terms of the agreement, under which said railroad equipment (or Deposited Cash in lieu thereof as provided in the agreement) and the lease thereof are held by said Trustee in trust for the equal benefit of the holders of the interests represented by said certificates, to which agreement and lease, filed with the Trustee at its said office, reference is made for a full statement respecting the terms and conditions governing the issuance of this certificate, the rights and obligations of the Company, the duties and immunities of the undersigned and the rights of the holder or registered owner hereof thereunder.

This certificate may be registered as to par value at the office of the Trustee in the Borough of Manhattan, City and State of New York, in the name of the holder hereof, and such registration noted hereon by the Trustee. Thereafter title to the interest represented by this certificate shall pass only by transfer so registered at said office unless and until a transfer to bearer shall have been similarly registered and noted hereon. Such registration shall apply only to the par value of this

SECTION 6. In case any Trust Certificate, or the dividend warrants appurtenant thereto (if any) shall become mutilated or defaced or be lost, stolen or destroyed, then on the terms herein set forth, and not otherwise, the Trustee shall upon the written request of the Company execute and deliver a new Trust Certificate (and the Company at the request of the Trustee shall execute its guaranty thereon), with all unmatured dividend warrants (if any) appertaining thereto, of like maturity, tenor and date, and bearing the same serial number as the one mutilated, defaced, lost, stolen or destroyed, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Trust Certificate and dividend warrants (if any), or in lieu of or in substitution for the same if lost, stolen or destroyed, and the Trustee shall make payment of any matured and unpaid dividend warrants appertaining to the same. The applicant for a new Trust Certificate shall furnish to the Trustee and to the Company evidence to their satisfaction of the loss, theft or destruction of such Trust Certificate and warrants (if any) alleged to have been lost, stolen or destroyed, and of the ownership and authenticity of such mutilated, defaced, lost, stolen or destroyed Trust Certificate and warrants (if any), and also such security and indemnity as may be required by the Trustee and by the Company in their discretion; and shall pay all expenses and charges of such substitution or exchange. All Trust Certificates and warrants are held and owned upon the express condition that the foregoing provisions are exclusive in respect of the replacement of mutilated, defaced, lost, stolen or destroyed Trust Certificates and 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 and compensation of the Trustee, and of all taxes, assessments and governmental charges herein mentioned for which the Trustee may be liable.

SECTION 2. The Company covenants and agrees and guarantees that the bearer or registered owner of each of the Trust Certificates shall receive the par value of one thousand dollars ($1,000), or, in the case of temporary Trust Certificates, the par value therein expressed to be payable, in lawful money of the United States of America, when and as the same shall become due and payable, whether at the maturity thereof or otherwise under the provisions thereof or of this agreement, and shall receive dividends thereon in like money at the rate of two and three-eighths per cent (2⅜%) per annum, from September 1, 1948, to the date of maturity of such Trust Certificate, at the times and place and otherwise as expressed in such Trust Certificate and in the dividend warrants, if any, appurtenant thereto; and the Company further covenants and agrees to endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by the Trustee, its guaranty of the prompt payment 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 the officer of the Company who shall have signed said guaranty shall cease to be such officer of the Company before the Trust Certificates shall have been issued and delivered by the Trustee, or shall not have been such officer on the date of the Trust Certificates, such guaranty shall, nevertheless, be as effective and binding upon the Company as though the person who signed such guaranty had not ceased to be such officer of the Company or had been such officer on the date of the Trust Certificates.

SECTION 3. The Company covenants and agrees that it will pay and discharge or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of any debt, tax, charge, obligation or 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 debt, tax, charge, obligation or claim so long as the validity thereof shall be contested in good faith and by

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appropriate legal proceedings unless such contest will, in the judgment of the Trustee, materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates.

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, or connected with the preparation, execution, recording, re-recording, registration, re-registration, filing and refiling 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 to any equipment or parts used to replace any of the same. The Company covenants that prior to the delivery to it of any of the Trust Equipment covered thereby, it will cause this agreement and said lease, and thereafter from time to time any and all supplemental agreements and leases which may be executed pursuant to the terms hereof and of said lease, to be duly filed or recorded in all States wherein are situated railroad lines owned or operated by it or by any corporation a majority of whose stock shall be owned directly or indirectly by the Company or over which the Company or any such corporation has trackage rights, and in all States where any of the Trust Equipment shall be delivered, and in Canada, and otherwise as may be required by law for the full protection of the title of the Trustee and the rights of the holders of the Trust Certificates, so that this agreement and said lease and all said other instruments shall at all times be duly filed and recorded. In like manner the Company will cause this agreement and lease and all supplemental agreements and leases to be re-recorded, re-registered and refiled as may at any time be required by law for such protection.

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 hereof and thereof.

SECTION 6. The Company covenants that it will make payment of the rentals on account of the Trust Equipment as provided in this agreement and in said lease, notwithstanding that any of the Trust Certificates and dividend warrants shall have been acquired by the Company or shall not have been presented for payment.

SECTION 7. It being contemplated that all of said $12,720,000 of certificates shall be issued forthwith upon the deposit with the Trustee or to its credit as Trustee hereunder of $12,720,000, in cash, as in Article I, of this agreement provided, the Company covenants that it will pay to the Trustee the said rentals when and as the same shall become due and payable, as in this agreement and in the said lease provided, notwithstanding that any of such payments shall have become so due and payable prior to the delivery under the lease to the Company of any of the said equipment.

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 any of the Trust Certificates or dividend warrants, or for any 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 Company, or in case, at or after maturity, any Trust Certificates or dividend warrants shall be purchased, 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 or 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 par value 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 Sixth of said lease shall happen, the Trustee, in its discretion, may, and upon the written request of the holders of not less than twenty-five per cent. (25%) in par value of the then outstanding Trust Certificates shall, upon being indemnified as hereinafter in Article V provided, by notice in writing to the Company, declare to be due and payable the par value of all the Trust Certificates then outstanding and thereupon the same shall become and be immediately due and payable. In case one or more of said events of default shall happen (whether or not the par value of the Trust Certificates shall have been declared due and payable), then the Trustee may, and upon the written request of the holders of not less than twenty-five per cent. (25%) in par value of the Trust Certificates then outstanding shall, upon being indemnified as hereinafter in Article V provided, take all steps for the protection and enforcement of its rights and the rights of the holders of the Trust Certificates, herein or in said lease provided, 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, the holders of a majority in par value of the Trust Certificates then outstanding from time to time, if and when the Trustee shall have been indemnified as in said Article V provided, shall have the right by an instrument or instruments in writing executed and delivered to the Trustee to direct the method of conducting all proceedings for any enforcement of this agreement or of said lease, including without limitation the sale, lease or other disposition of the Trust Equipment, provided that such direction shall not be otherwise than in accordance with the provisions of law

or of this agreement or of said lease. The proceeds of such sale, lease or other disposition, or of such other proceedings, whether pursuant to the provisions of this agreement or of the lease, after deducting the expenses of the trust and all taxes, assessments and other governmental charges which the Trustee may by law be required to pay in respect of the Trust Equipment or the Trust Certificates or the dividends thereon or this agreement or the lease, shall be applied by the Trustee to the payment,

(1) of the dividend warrants or dividend payments then due, with interest on overdue dividends from their respective due dates at the rate of two and three-eighths per cent (2⅜%) per annum; and

(2) of the par value of all of the outstanding Trust Certificates, with interest thereon at the rate of two and three-eighths per cent (2⅜%) per anuum from the last preceding dividend date, whether such certificates or any of them shall then have matured by their terms or not;

all of said payments to be in full, if such proceeds shall be sufficient, and if not sufficient, then *pro rata* without preference of par value over dividends, or of dividends over par value 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 Trust Certificates shall have been declared due and payable, as provided in this agreement, but before the latest semi-annual maturity date of the Trust Certificates, all arrears of dividends (with interest upon any overdue installment at the rate of two and three-eighths per cent (2⅜%) per annum), the expenses of the Trustee and all other sums which shall have become due and payable under this agreement or under said lease (other than Trust Certificates or rental installments which shall have become due by declaration only), shall be paid, or funds for the payment thereof shall be in the hands of the Trustee, 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 par value of the Trust Certificates then outstanding and which would not have then matured except for having been so declared due and payable, shall, by written notice to the Company, waive the default or defaults under this agreement and under said lease, by reason of which the Trust Certificates or the rental installments, respectively, shall have been declared and become due and the consequences of such default or defaults, 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 sale or lease 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 the holder of any 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.

The Trustee may at any time, upon notice in writing to the 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 V.

SECTION 1. The Trustee hereby accepts the trusts imposed upon it by this agreement subject to the terms hereof.

SECTION 2. The Trustee covenants and agrees to apply and distribute the rentals received by it under subdivision B 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, including compensation and expenses provided for in this agreement and all expenses connected with the Trust Equipment and said lease thereof; expenses incurred or sustained by the Trustee in connection with any purchase or sale of obligations of the United States of America pursuant to the provisions of Section 6 of Article I hereof; and any sums which shall be required in order to restore to Deposited Cash, in accordance with said provisions of Section 6 of Article I hereof, the full amount or amounts thereof which shall have been invested in obligations of the United States of America;

(*b*) to the payment of any and all taxes, assessments and other governmental charges assessed or levied upon or on account of the income or property of the trust, or the agreement and lease evidencing the same, which the Trustee as such may be required to pay;

(*c*) to the payment of the dividend warrants appurtenant to the Trust Certificates, or in the case of the issue of temporary Trust Certificates without dividend warrants, to the payment of the dividends payable thereon, when and as such dividend warrants or dividends shall become payable, subject to the provisions of Section 1 of Article IV hereof;

(*d*) to the payment of the par value of the Trust Certificates when and as the same shall become payable according to the terms thereof or hereof, subject to the provisions of Section 1 of Article IV hereof; and

(*e*) to the payment of interest upon any due and unpaid dividends on, or dividend warrants appurtenant to, the Trust Certificates or upon any due and unpaid amounts of par value of the Trust Certificates, at the rate of two and three-eighths per cent (2⅜%) per annum.

If, as and when the Trustee shall have received the rentals applicable to the payment of the Trust Certificates and dividend warrants,

it shall make payment in discharge of the same as therein provided, and thereupon shall cancel the Trust Certificates and dividend warrants so paid; and no Trust Certificates or dividend warrants in substitution therefor shall be issued.

Nothing herein or in the Trust Certificates or said lease contained shall be deemed to impose on the Trustee or on the Company any obligation to pay to the holder of any Trust Certificate or dividend warrant any amount required by any law of the United States of America or of any State or subdivision thereof to be withheld from the amount payable to the holder of any Trust Certificate or dividend warrant.

SECTION 3. The Trustee shall cause to be kept, at its office in the Borough of Manhattan, City and State of New York, books for the registration and transfer of the Trust Certificates, and upon presentation for such purpose the Trustee will register or cause to be registered as hereinbefore provided, and under such reasonable regulations as the Trustee may prescribe, the par value of any of the Trust Certificates which may be so registrable.

SECTION 4. The Trustee shall not be required to undertake any act or duty in the way of taking care of or taking possession of the Trust Equipment or to undertake any other act or duty under this agreement or said lease until fully secured by the Company or by one or more holders of the Trust Certificates against all liability and expenses. 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, registration or recording, or the refiling, re-registration or re-recording of this agreement or of said lease or of any agreement executed pursuant hereto or thereto; and the Trustee may issue and deliver the Trust Certificates in advance of such filing, registration or recording. In accepting delivery of and making payment for the Trust Equipment hereunder, the Trustee may rely upon and shall be fully protected by the certificates, bills of sale and opinions of counsel to be furnished to it under Section 5 of Article I of this agreement.

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 twenty-five per cent. (25%) in aggregate par value of the then outstanding Trust Certificates and unless indemnified to its satisfaction against expense and liability with respect thereto, and also furnished with proof satisfactory to it as to the ownership of the Trust Certificates and dividend 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 or in the lease specifically given to the Trustee to determine whether it shall take action 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 twenty-five per cent. (25%) in aggregate par value of the then outstanding Trust Certificates shall have been made upon the Trustee, indemnity satisfactory to it has been provided, and ninety (90) days have elapsed for action by the Trustee upon such request, it shall decline, fail or neglect to institute any proceedings pursuant thereto.

SECTION 7. The Trustee may, for all purposes, conclusively assume that the Company is not in default under the terms hereof or of said lease until notified in writing to the contrary by the holders of at least ten per cent (10%) in aggregate par value of the Trust Certificates then outstanding, which notice shall distinctly specify the event of 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, or to be signed by the proper party or parties.

SECTION 9. The Trustee shall not be liable for any delay in the delivery of, nor for any defect in, any of the Trust Equipment, nor for any default on the part of the manufacturers thereof or of the Vendor, nor shall anything herein or in the lease be construed as a warranty on the part of the Trustee in respect thereof or as its representation in respect of the value thereof or in respect of the title thereto.

The Trustee may perform its powers and duties hereunder and under the lease by or through such attorneys, agents and servants as it shall appoint, and shall be entitled to rely upon the advice of counsel (who may be of counsel for the Company) and shall be protected by the advice of such counsel in anything reasonably done or omitted to be done by it 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, for wrongful acts, negligence or defaults of its officers or directors.

The Trustee shall not be responsible in any way for the recitals herein or in the lease contained or for the execution or validity of this agreement or of the lease or of the Trust Certificates, or the guaranty by the Company, or for any mistake of fact or law.

The Trustee shall be entitled to receive payment of all of its expenses and disbursements hereunder and under the lease, including counsel fees, and to receive reasonable compensation for all services rendered by it in the execution of the trust hereby created, all of which shall be paid by the Company; or, in default of such payment, out of the rentals or proceeds or avails of the Trust Equipment.

The Trustee in its individual capacity may own, hold and dispose of Trust Certificates and dividend warrants with the same rights which it would have if it were not Trustee.

SECTION 10. If at any time the Trustee or any successor to it in the trust hereby created shall desire to divest itself of title to the Trust Equipment, and to terminate its duties and obligations and rights under

this agreement, the lease and the Trust Certificates, it shall so notify the Company in writing and the Company shall thereupon designate in writing to the Trustee a national bank or a trust company, qualified as below specified, to serve until a successor is appointed by the holders of Trust Certificates as hereinafter provided and to which may be assigned the entire right, title and interest of the Trustee or such successor in the Trust Equipment, and in which may be vested the rights, powers, duties and obligations of the trust under this agreement, the lease and the Trust Certificates. Upon the transfer and delivery of all moneys and Trust Equipment held by the Trustee or any such successor and the payment of its compensation and expenses, and the execution by the retiring trustee of such instruments of transfer as may reasonably be requested by the successor trustee, and upon acceptance by the successor trustee of the assignment and of the trust, the retiring trustee shall be relieved and discharged of all the title, rights, powers, duties and obligations of the trust under this agreement, the lease and the Trust Certificates, and the same shall become vested in such successor trustee, and every provision of this agreement and the lease applicable to the retiring trustee shall apply to such successor trustee with like effect as if originally named herein in the place and stead of the party of the second part. In the event that the Company shall fail to designate such a successor trustee by instrument in writing delivered to the retiring trustee within two weeks from the date of receiving such notice in writing from the retiring trustee, the retiring trustee may thereupon designate such successor trustee. The foregoing provisions are, however, subject to the right of the holders of the majority in par value of the Trust Certificates then outstanding by an instrument in writing to appoint any successor trustee, if such appointment is made within one year from the date of the giving of such notice to the Company. The Company will execute all such writings recognizing the transfer of title as aforesaid and all such instruments of further assurance or otherwise as may be requested by the successor trustee in the premises, and will do and perform any and all acts necessary to establish and maintain the title and rights of the successor

trustee in and to the Trust Equipment. Every successor trustee shall be a national bank or a trust company doing business in the Borough of Manhattan, City and State of New York, having a capital and surplus aggregating at least five million dollars ($5,000,000), if there be such national bank or trust company willing and able to accept the trust upon reasonable and customary terms.

Any corporation resulting from any merger or consolidation to which the Trustee, or any successor to it, shall be a party, or any corporation in any manner succeeding to the business of the Trustee or any successor trustee, as a whole or substantially as a whole, provided such corporation shall be a corporation organized under the laws of the United States of America, or of the State of New York, and shall do business in the Borough of Manhattan, City and State of New York, and have a capital and surplus aggregating at least five million dollars ($5,000,000), shall be the successor trustee under this agreement and said lease 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 said lease, 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, said lease 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 said lease 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 of said lease and the issue of such Trust Certificates and dividend warrants.

ARTICLE VII.

Any demand or request or other instrument provided for by this agreement or said lease to be signed or executed by holders of Trust Certificates may be in any number of concurrent writings of similar tenor and may be signed or executed by such holders in person or by agent appointed in writing. Proof of the execution of any such demand, request or other instrument, or of the writing appointing any such agent, and of the ownership by any person of any Trust Certificate not registered as to par value, shall be sufficient for any purpose of this agreement or said lease, and shall be conclusive in favor of the Trustee with regard to any action taken by the Trustee under any such request or other instrument, if such proof be made in the following manner, viz.:

(*a*) the fact and date of the execution by any person of any such demand, request or other instrument in writing may be proved by the certificate of any notary public or of any other officer authorized to take, either within or without the State of New York, acknowledgments of deeds to be recorded in the State of New York, or in the State where the acknowledgment may be taken, certifying that the person signing such demand, request or other instrument acknowledged to him the execution thereof; or by the affidavit of a witness to such execution;

(*b*) the fact of the holding by any holder of any Trust Certificate not registered as to par value and the amounts and numbers of such Trust Certficates, and the date of his holding the same, may be proved either by producing and exhibiting to the Trustee the actual Trust Certificates themselves, or by a certificate executed by any trust company, bank, banker or other depositary, wherever situated, if such cer-

tificate shall be deemed by the Trustee to be satisfactory, showing that at the date therein mentioned such person had on deposit with such depositary the Trust Certificates described in such certificate. The Trustee may consider such ownership as continuing until it shall receive proof satisfactory to it to the contrary.

The ownership of Trust Certificates registered as to par value shall be determined by the registry books to be kept as provided in Section 3 of Article V hereof.

ARTICLE VIII.

At the termination of said lease to the Company, any moneys remaining in the hands of the Trustee, after paying the par value of and dividends upon the Trust Certificates, with such interest, if any, as may be payable thereon, and the expenses of the Trustee, including its reasonable compensation and counsel fees, 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 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 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 First National Bank of the City of New York, and any successor trustee hereunder; the word "Company" to mean and include the party of the third part, its successors and assigns; and the words "holder" or "owner" shall include the plural as well as the singular number. The term "agreement" as used herein and in said lease, unless otherwise indicated by the context, shall be held and

construed to mean the agreement, dated September 1, 1948, between the Vendor, the Trustee and the Company, as amended and supplemented by the agreement, dated as of September 1, 1948, between the Vendor, the Trustee and the Company. The term "lease" as used herein, unless otherwise indicated by the context, shall be held and construed to mean the lease, dated September 1, 1948, from the Trustee to the Company, as amended and supplemented by the agreement, dated as of September 1, 1948, between the Trustee and the Company. 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.

The Vendor shall incur no liability hereunder or under any bill of sale or certificate executed by it as herein provided or for anything other than its own individual default, misconduct or gross neglect. The Vendor shall be entitled to the advice of counsel (who may be counsel to the Company) and shall be protected by the advice of such counsel in anything done or omitted to be done by it in accordance with such advice.

Whenever, under the provisions hereof or of the lease, 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 by depositing a written statement thereof, securely enclosed in a postpaid wrapper, in the United States mail, directed to the Company at 175 East Fourth Street, St. Paul, Minn., 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 or 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.

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

IN WITNESS WHEREOF, the Vendor, the Trustee and the Company 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."

IN WITNESS WHEREOF, the Vendor, the Trustee and the Company 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.

BURLINGTON EQUIPMENT COMPANY,

By ..... President.

(CORPORATE SEAL)

Attest:

..... Assistant Secretary.

Signed, sealed and delivered by BURLINGTON EQUIPMENT COMPANY in the presence of:

.....

.....

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,

By ..... Vice-President.

(CORPORATE SEAL)

Attest:

..... Assistant Cashier.

Signed, sealed and delivered by THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK in the presence of:

.....

.....

GREAT NORTHERN RAILWAY COMPANY,

By V. P. Turnbuke
Vice-President.

(CORPORATE SEAL)

Attest:

..... Assistant Secretary.

Signed, sealed and delivered by GREAT NORTHERN RAILWAY COMPANY in the presence of:

.....

.....

(United States Internal Revenue Stamps for $13,992 have been affixed to an original counterpart hereof in the possession of the Trustee and have been duly cancelled.)

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

I, RUDOLPH HARMER, JR., 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 23rd 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 Burlington Equipment Company to the within and foregoing instrument, R. W. COGLAN and J. V. WOLFE, each to me personally known and known to me to be, respectively, President and Assistant Secretary of Burlington Equipment 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 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. W. COGLAN and J. V. WOLFE, 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. W. COGLAN resides in the City of Chicago, State of Illinois, and that the said J. V. WOLFE resides in the Village of St. Charles, State of Illinois; that said R. W. COGLAN is President and said J. V. WOLFE is Assistant Secretary of Burlington Equipment Company, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said 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 President and Assistant Secretary in behalf of said corporation by like authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of Cook, State of Illinois, this the day and year in this my certificate first above written.

Rudolph Harmer Jr.

My Commission Expires February 28, 1950

[NOTARIAL SEAL]

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

I, EDNA VEITH, 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 26th 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 The First National Bank of the City of New York to the within and foregoing instrument, Henry St. Sturgis and EDWIN THORNE each to me personally known and known to me to be respectively Vice President and Assistant Cashier of The First National Bank of the City of New York, 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 Henry St. Sturgis and EDWIN THORNE being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said Henry St. Sturgis resides in the VILLAGE OF CEDARHURST, State of NEW YORK, and that the said EDWIN THORNE resides in the TOWN OF GREENWICH, State of CONNECTICUT; that said Henry St. Sturgis is Vice President and said EDWIN THORNE is Assistant Cashier of The First National Bank of the City of New York one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Vice President and Assistant Cashier know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Cashier, in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of New York, State of New York, this the day and year in this my certificate first above written.

Edna Veith

EDNA VEITH
Notary Public in the State of New York
Residing in New York County
New York County Clerk's No. 57
Commission Expires March 30, 1949

[NOTARIAL SEAL]

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

I, Harry G. Silleck Jr., 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 26th 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 Great Northern Railway Company to the within and foregoing instrument, V. P. TURNBURKE and N. STOCKHAMMER, each to me personally known and known to me to be, respectively, Vice President and Assistant Secretary of the Great Northern Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said V. P. TURNBURKE and N. STOCKHAMMER, 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 N. STOCKHAMMER resides in the City of Jersey City, State of New Jersey; that said V. P. TURNBURKE is Vice President and said N. STOCKHAMMER is Assistant Secretary of the Great Northern Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Vice President and Assistant Secretary know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of New York, State of New York, this the day and year in this my certificate first above written.

Harry G. Silleck, Jr.

HARRY G. SILLECK, JR.
NOTARY PUBLIC, State of New York
Residing in Putnam County
Putnam County Clerk's No. 378
N. Y. Co. Clk's No. 2537, Reg. No. 2120-S-9
Commission Expires March 30, 1949

[NOTARIAL SEAL]

THIS AGREEMENT, dated as of September 1, 1948, between THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, a corporation duly organized and existing under the laws of the United States of America, Trustee under the Great Northern Railway Equipment Trust of 1948 (hereinafter called the "Trustee"), party of the first part, and GREAT NORTHERN RAILWAY COMPANY, a corporation duly organized and existing under the laws of the State of Minnesota (hereinafter called the "Company"), party of the second part:

WHEREAS, by a certain agreement, dated, September 1, 1948, by and between BURLINGTON EQUIPMENT COMPANY, Vendor, said THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, as Trustee, and said GREAT NORTHERN RAILWAY COMPANY, there was constituted the Great Northern Railway Equipment Trust of 1948 under which the railroad equipment which said Vendor agreed to transfer or cause to be transferred to the Trustee thereunder was to be leased by the Trustee to the Company; and

WHEREAS, by a lease of railroad equipment, dated September 1, 1948, by and between the Trustee and the Company said railroad equipment was leased by the Trustee to the Company; and

WHEREAS, said agreement, dated September 1, 1948, was amended and supplemented by an agreement dated as of September 1, 1948, a counterpart original whereof is hereto prefixed and made a part hereof; and

WHEREAS, the parties hereto desire to amend and supplement said lease as hereinafter more particularly provided:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, the parties hereto agree that said lease is hereby supplemented and amended to read as follows:

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"LEASE OF RAILROAD EQUIPMENT, dated September 1, 1948, between THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, 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 GREAT NORTHERN RAILWAY COMPANY, a corporation duly organized and existing under the laws of the State of Minnesota (hereinafter called the "Company"), party of the second part:

WHEREAS, by a certain agreement dated September 1, 1948, as amended and supplemented by a further agreement dated as of September 1, 1948, by and between Burlington Equipment Company, Vendor, said The First National Bank of the City of New York, as Trustee, and said Great Northern Railway Company, a counterpart original whereof (as so amended and supplemented) is hereto prefixed and made a part hereof, there was constitnted the "Great Northern Railway Equipment Trust of 1948," under which the railroad equipment which said Vendor has agreed to transfer or cause to be transferred to the Trustee thereunder is to be leased by the Trustee to the Company; and

WHEREAS, pursuant to the provisions of said agreement as so amended and supplemented 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, THEREFORE, THIS AGREEMENT WITNESSETH:

That the Trustee (acting in pursuance of said agreement), for and in consideration of the sum of one dollar to it in hand paid by the Company at or before the ensealing and delivery hereof, the receipt of which is hereby acknowledged, and 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 following railroad equipment of the Great Northern Railway Equipment Trust of 1948, to wit:

Number of Units:	*Description of Equipment:*	*Name of Builder:*
1500	40′ 6″ 50-ton steel-frame double-sheathed box cars. Numbers 18000 to 19499, inclusive. Estimated cost $5,400 per unit.	Great Northern Railway Company.
500	40′ 6″ 50-ton all steel gondola cars. Numbers 74500 to 74999, inclusive. Estimated cost $6,200 per unit.	Pullman-Standard Car Manufacturing Company.
200	40′ 6″ 50-ton all steel gondola cars. Numbers 76750-76949, inclusive. Estimated cost $5400 per unit.	American Car & Foundry Company.
100	29′ 3″ 70-ton all steel covered hopper cars. Numbers 73795 to 73894, inclusive. Estimated cost $6,500 per unit.	Pullman-Standard Car Manufacturing Company.
75	29′ 3″ 70-ton all steel covered hopper cars. Numbers 73895-73969, inclusive. Estimated cost $5900 per unit.	American Car & Foundry Company.
1	6000 H.P. Diesel-electric freight locomotive consisting of 2 "A" lead units, and 2 "B" booster units. Number 442. Estimated cost $617,500.	American Locomotive Company.
10	1500 H.P. Diesel-electric road-switch locomotives. Numbers 208-217, inclusive. Estimated cost $150,000, per unit.	American Locomotive Company.
4	1000 H.P. Diesel-electric switching locomotives. Numbers 151-154, inclusive. Estimated cost $102,500 per unit.	Electro Motive Division, General Motors Corporation.

together with such additional railroad equipment as may be acquired for said trust and subjected to this lease as hereinafter provided (hereinafter collectively called the Trust Equipment).

The cost of the railroad equipment above specifically described, when completed, is estimated by the Company to be approximately $15,900,000.

In case the actual cost of said equipment specifically described above shall not amount to at least $15,900,000, then, in accordance with the provisions of said agreement, in addition to that equipment, there is to be acquired by said Vendor other new standard-gauge rolling stock (other than work equipment) of substantially as good material and construction, and approved as to character by the Company, of such cost that the aggregate cost of all the Trust Equipment will be at least $15,900,000, and such additional equipment shall be subjected to this lease, in accordance with the provisions of Section 5 of Article I of said agreement; 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 any of 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 Third hereof, the same shall be delivered by the Trustee to the Company at the same point or points of delivery provided for in Section 1 of Article I of said agreement and shall upon such delivery to the Company, *ipso facto* and without further deed of lease or transfer, pass under and become subject to all the terms and provisions of this lease, and be deemed a portion of the Trust Equipment leased by the Trustee to the Company hereunder in all respects as if the same had been so delivered simultaneously with the execution and delivery hereof.

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

ARTICLE 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 (except as in this Article First otherwise provided) or its assigns, rent hereunder which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable (whether or not any of such items shall become due and payable prior to the delivery under this lease of the Trust Equipment or any thereof):

A. From time to time, as provided in said agreement, the Company shall pay to the Trustee, as advance rental under this lease, sums which in the aggregate shall be equal to the difference between the total cost of the Trust Equipment and the net proceeds of the subscriptions (as defined in Section 2 of Article I of said agreement), the intention being that when all of the Trust Equipment shall have been delivered to the Trustee, the Company shall have paid or shall pay to the Trustee, as advance rental under this lease, a sum equal to the amount by which the entire cost of the Trust Equipment, as certified to the Trustee pursuant to the provisions of Section 5 of Article I of said agreement, exceeds the net proceeds of the subscriptions and in no event less than twenty per cent. (20%) of the aggregate cost of the Trust Equipment. The Company agrees to pay such advance rental as follows:

(1) Upon the deposit with the Trustee of the amount of the net proceeds of the subscriptions, a sum which when added to such amount will make the total sum deposited with the Trustee equal to $12,720,000;

(2) Upon delivery of any of the Trust Equipment to the Trustee, amounts equal to the cost of such equipment in excess of the portion, if any, of such cost payable out of Deposited Cash, and being not less than twenty per cent. (20%) of such cost.

B. In addition to such advance rental the Company shall pay to the Trustee (or, in the case of taxes, assessments or other governmental charges, to the proper governmental authority), from time to time as below provided, as rental for the Trust Equipment, and whether or not at the time any thereof shall have been delivered to the Company, the following:

(*a*) The necessary and reasonable expenses of the trust, including compensation and expenses, provided for in said agreement and all expenses connected with the Trust Equipment and this lease thereof; and expenses or liabilities for any other amounts incurred or sustained in connection with any purchase or sale of obligations of the United States of America pursuant to the provisions of Section 6 of Article I of said agreement; and any sums which shall be required to restore to Deposited Cash, in accordance with said provisions of Section 6 of Article I of said agreement, the full amount or amounts thereof which shall have been invested in obligations of the United States of America;

(*b*) The amount of any and all taxes, assessments and other governmental charges assessed or levied upon or on account of the income or property of the trust, or said agreement and this lease evidencing the same, which the Trustee as such under said agreement may be required to pay.

(*c*) The amount of the dividend warrants appurtenant to the Trust Certificates, or, in the case of the issue of temporary Trust Certificates without dividend warrants, the amount of the dividends payable thereon, on the respective dates on which such dividend warrants or dividends shall severally become payable; also a sum equal to interest at the dividend rate, from the due date, upon the amount of any installments of rental payable under this sub-paragraph (*c*) and the following sub-paragraph (*d*) theretofore due and unpaid.

(*d*) The amount of the par value of the Trust Certificates, when and as the same shall become payable, whether upon the

respective dates of maturity thereof or otherwise under the provisions thereof or of said agreement.

The Company shall not be required, however, to pay any amount in respect of 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.

All payments of rental hereunder shall be made at the office of the Trustee in the Borough of Manhattan, City and State of New York, in lawful money of the United States of America.

ARTICLE SECOND.

This lease shall continue in force until the rent paid hereunder shall furnish monies sufficient to meet, discharge, and cancel all the interests of the Trustee and the holders of the Trust Certificates in said Great Northern Railway Equipment Trust of 1948, created in respect of the Trust Equipment. At the termination of this lease and after all payments due or to become due from the Company hereunder and under said agreement shall have been completed and fully made to the Trustee, (1) such payments shall be applied and treated as purchase money and as the full purchase price of the Trust Equipment, (2) title to all of the Trust Equipment shall vest in the Company, and (3) thereupon the Trustee shall execute for record or filing in public offices, such instrument or instruments in writing as reasonably shall be requested by the Company in order to transfer to the Company all of the right, title and interest of the Trustee in and to all of the Trust Equipment; provided, however, and it is hereby 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.

ARTICLE THIRD.

At or before the delivery to the Company of each unit of 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 thereof, in either case, in letters not less than one inch in height:

"Great Northern Railway Equipment Trust of 1948. The First National Bank of the City of New York, Trustee, Owner, Lessor."

Such plates 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 shall immediately cause the same to be restored or replaced.

The Company shall not change, or permit to be changed, the serial numbers or names of any of the Trust Equipment at any time covered by this lease (nor any serial numbers or names which may be substituted as herein provided), except in accordance with a statement of new serial numbers or new names to be substituted therefor, which shall previously have been filed with the Trustee by the Company and consented to by the Trustee and recorded or filed in each public office where this instrument shall have been recorded or filed.

The Company will not allow the names of any persons, associations or corporations to be placed on any of the Trust Equipment as a designation which might be interpreted as a claim of ownership by the Company or anyone other than the Trustee, provided, however, that the Company may cause the said equipment to be lettered "Great Northern Railway," "Great Northern" or "G. N. Ry. Co.," or in some other appropriate manner for convenience of identification of the leasehold interest of the Company therein.

ARTICLE FOURTH.

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 serial numbers or names of the Trust Equipment then covered hereby showing (a) the Trust Equipment then in actual service, (b) any that may have been worn out, or that may have become unsuitable for use, or lost or destroyed by accident or otherwise, or released, and the replacements thereof, and (c) any then undergoing general repairs, or then withdrawn from use for general repairs, according to a standard classification of repairs in use by steam railroad companies in the United States. Together with said statement the Company shall also furnish to the Trustee a statement signed by its President or a Vice-President, stating that in the case of all of the Trust Equipment repaired or repainted during the preceding year the plates or marks required by Article Third hereof have been preserved thereon. And the Trustee shall have the right, by its agents, but shall be under no duty, to inspect the Trust Equipment once in every year during the continuance of this lease.

The Company covenants and agrees to indemnify and protect the Trustee against all claims arising out of or connected with the ownership or use of any of the Trust Equipment, and particularly against any or all claims arising out of the use of any patented inventions in and about the Trust Equipment, and to comply in all respects with the laws of the United States of America and of all the States in which the Trust Equipment, or any 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 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

Equipment or any of it or any cause or right of action, at law or in equity, in respect of the Trust Equipment against the Trustee or the holders of the Trust Certificates. No such taking possession or withdrawal or lease or sale of the Trust Equipment by the Trustee shall be a bar to the recovery by the Trustee from the Company of rentals then or thereafter due and payable, and the Company shall be and remain liable for the same, until such sums shall have been realized 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 Article First hereof, whether they shall have then matured or not.

If the Trustee shall exercise any of the powers or remedies conferred upon it hereunder, the 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 or otherwise disposed of by the Trustee to others, to be transferred and conveyed by the Trustee to the Company, free from any further liabilities or obligations to the Trustee hereunder.

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 shall, at its own expense, forthwith and in the usual manner, cause the Trust Equipment to be moved to such point or points on said railroads as shall be designated by the Trustee and shall there deliver or cause to be delivered the same to the Trustee; or, at the option of the Trustee, the Trustee 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 facilities at any convenient point or points selected by the Trustee. It is hereby expressly cove-

nanted and agreed that the performance of the foregoing covenants is of the essence of the contract and that, upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

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.

ARTICLE SEVENTH.

The Company, during the continuance of this lease, shall maintain and keep all of the Trust Equipment in good order and proper repair, at its own cost and charge, and shall cause to be replaced, at its own cost, any of the Trust Equipment that may be released as hereinafter in this Article provided, worn out, unsuitable for use, lost, or destroyed, by new standard-gauge rolling stock (other than work equipment) of substantially as good material and construction and of a value at least equal to the fair value at the time when the obligation to replace shall arise, of the equipment so released, worn out, unsuitable for use, lost or destroyed, the value of the new rolling stock to be figured at cost if that be below market value, or at market value if that be below cost; provided, however, that the Company may, pending such replacement, deposit with the Trustee, in trust for the benefit of the holders of the Trust Certificates, cash to an amount equal to such fair value of the equipment so released, worn out, unsuitable for use, lost, or destroyed, such fair value to be determined and any moneys so deposited to be held and applied as hereinafter in this Article provided. The rights and remedies of the Trustee to enforce or to recover any of the rental payments shall not be affected by reason of such release, wearing out, unsuitableness for use, loss or destruction.

The title to all rolling stock procured for such replacement shall be taken in the name of the Trustee, free from liens and encumbrances; and such rolling stock shall be marked in accordance with the provisions

of Article Third hereof. At the time of every such replacement the Company shall deliver or cause to be delivered to the Trustee a certificate or certificates of the President or a Vice-President of the Company stating such fair value of the Trust Equipment so released, worn out, unsuitable for use, lost, or destroyed and the cost and market value of such new equipment (and such certificate or certificates shall be full and complete protection to the Trustee), together with a bill or bills of sale to the Trustee, an opinion of counsel (who may be of counsel for the Company) satisfactory to the Trustee and a certificate as to delivery, in like manner as is provided in Section 5 of Article I of said agreement. Thereupon the Trustee shall execute to the Company a supplemental lease of such new equipment, describing the same, and such new equipment shall be deemed part of the Trust Equipment, subject to all of the terms and conditions hereof and of said agreement as though it had been part of the original Trust Equipment.

The Company shall promptly and fully inform the Trustee with regard to any loss or destruction of any of the rolling stock, and with regard to any substantial repairs made or being made upon it, or any of it.

It being desirable in the interest of both parties to this lease that any of the Trust Equipment, which in any respect shall have become worn out, or unsuitable for the use of the Company, should be released and promptly sold and replaced, it is hereby mutually understood and agreed that at any time hereafter until title thereto shall become vested in the Company, the Trustee will sell any such units of the Trust Equipment then subject to this lease, upon the written request of the Company, signed by the President, or a Vice-President, or the Treasurer or an Assistant Treasurer of the Company, accompanied by a certified copy of a resolution of its Board of Directors or Executive Committee, authorizing such request, describing such units and reciting that they have become worn out or unsuitable for the use of the Company, stating the selling price thereof and specifying the original cost and the fair value thereof at the time of such request; provided, however, that the

proceeds of such sale or sales, and any money paid to the Trustee as in the first paragraph of this Article provided, shall be received by the Trustee in trust for the benefit of the holders of the Trust Certificates pending replacement of such Trust Equipment, and upon the written request of the Company, signed in like manner, shall be applied to the purchase by the Trustee of such new standard-gauge rolling stock (other than work equipment) of value at least equal to such fair value of the equipment replaced, and of substantially as good material and construction, as shall be specified in writing by the Company. Such new rolling stock shall be treated as hereinabove provided for replacements, and shall become and shall be subject to this lease and said agreement and to all the terms and conditions hereof and thereof.

No sale of any unit of Trust Equipment hereunder shall be made by the Trustee for less than the fair value of said unit at the time of sale unless and until the Company shall have deposited with the Trustee the difference between the price at which it is to be sold and such fair value.

For all purposes under this Article the fair value of any unit of Trust Equipment to be replaced shall be considered to be the cost thereof, determined as herein provided, less five per cent (5%) of said cost for each full year during which this lease and said agreement have run prior to the date at which the fair value is so to be determined.

A certificate signed by the President or a Vice-President or the Treasurer or an Assistant Treasurer of the Company, setting forth the facts necessary to be known by the Trustee before taking action under this Article, and that the method employed in arriving at the fair value of any equipment was that provided for in this Article, may be received by the Trustee as conclusive evidence of the statements therein contained. The Trustee shall incur no liability or responsibility whatever by reason of any action taken or suffered in reliance on any such certificate.

ARTICLE EIGHTH.

This lease may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original.

The term "lease" as used herein, unless otherwise indicated by the context, shall be held and construed to mean the lease, dated September 1, 1948, from the Trustee to the Company, as amended and supplemented by the agreement, dated as of September 1, 1948, between the Trustee and the Company.

ARTICLE NINTH.

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

In Witness Whereof, the Trustee, 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."

In Witness Whereof, the Trustee, acting in accordance with the terms and conditions of said agreement dated September 1, 1948 as amended and supplemented, 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 First National Bank of the City of New York,

By Henry S. Sturgis
Vice-President.

(corporate seal)

Attest:

[signature]
Assistant Cashier.

Signed, sealed and delivered by The First National Bank of the City of New York in the presence of:

F. A. Doolin
Ch. Connolly

Great Northern Railway Company,

By V. P. Turnburke
Vice-President.

(corporate seal)

Attest:

N. Stockhammer
Assistant Secretary.

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

D. Dillo
G. W. Martin

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

I, EDNA VEITH, 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 26th 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 The First National Bank of the City of New York to the within and foregoing instrument, Henry S. Sturgis and EDWIN THORNE each to me personally known and known to me to be respectively Vice President and Assistant Cashier of The First National Bank of the City of New York, 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 Henry S. Sturgis and EDWIN THORNE 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 [illegible] resides in the VILLAGE OF CEDARHURST, State of NEW YORK, and that the said EDWIN THORNE resides in the TOWN OF GREENWICH State of CONNECTICUT; that said [illegible] is Vice President and said EDWIN THORNE is Assistant Cashier of The First National Bank of the City of New York one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Vice President and Assistant Cashier know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Cashier, in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

In Testimony Whereof, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of New York, State of New York, this the day and year in this my certificate first above written.

Edna Veith

EDNA VEITH
Notary Public in the State of New York
Residing in New York County
New York County Clerk's No. 57
Commission Expires March 30, 1949

[Notarial Seal]

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

Form 1

No. 68269

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 Edna Veith

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 official character, 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 28 day of Oct, 1948

FEE PAID 25¢

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

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

I, Harry G. Silleck Jr., 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 25th 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 Great Northern Railway Company to the within and foregoing instrument, V. P. Turnburke and N. Stockhammer, each to me personally known and known to me to be, respectively, Vice President and Assistant Secretary of the Great Northern Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said V. P. Turnburke and N. Stockhammer, 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 N. Stockhammer resides in the City of Jersey City, State of New Jersey; that said V. P. Turnburke is Vice President and said N. Stockhammer is Assistant Secretary of the Great Northern Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Vice President and Assistant Secretary know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

In Testimony Whereof, I have hereunto set my hand, subscribed my name and affixed my official seal as such Notary Public, in the said County of New York, State of New York, this the day and year in this my certificate first above written.

Harry G. Silleck, Jr.

HARRY G. SILLECK, JR.
NOTARY PUBLIC, State of New York
Residing in Putnam County
Putnam County Clerk's No. 378
N. Y. Co. Clk's No. 2537, Reg. No. 2120-S-9
Commission Expires March 30, 1949

[Notarial Seal]

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

Form 1

No. 68277

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 Harry G. Silleck Jr

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 official character, 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 28 day of Oct, 1948

FEE PAID 25¢

94

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

STATE OF WISCONSIN)ss.
Department of State)
Received this 5th day of November, A.D. 1948, at 10:00 o'clock A.M., and recorded in Vol. 42 of Railroad Mortgages on Pages 172-200, incl.

Fred C. Zimmerman
Assistant Secretary of State

FIRST SUPPLEMENT

TO

EQUIPMENT LEASE AND AGREEMENT OF APRIL 1, 1948

(SERIES BB)

BY AND BETWEEN

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, TRUSTEE,

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

AND

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

DATED, NOVEMBER 15, 1948.

WISCONSIN

Executed in 20
Counterparts
Counterpart No 4

SERIES BB.

FIRST SUPPLEMENT TO A LEASE OF RAILROAD EQUIPMENT, dated as of April 1, 1948, between **CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO**, 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; and to an **AGREEMENT**, dated as of April 1, 1948, between **PAUL B. ROBB** and **H. J. GROENER** (hereinafter called the Vendors), parties of the first part, **CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO**, as Trustee, party of the second part, and **CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY**, a corporation duly organized and existing under the laws of the State of Wisconsin, party of the third part.

WHEREAS, by a Lease of Railroad Equipment, dated as of April 1, 1948, between the Trustee and the Railroad Company, certain railroad equipment described therein was leased to the Railroad Company pursuant to the terms of an Agreement, also dated as of April 1, 1948, between the Vendors, the Trustee and the Railroad Company, creating Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series BB, and providing for the issue of Equipment Trust Certificates (hereinafter called Trust Certificates), not exceeding in aggregate principal amount $2,640,000; and

WHEREAS, said Agreement provides, among other things, that in case the actual cost of the railroad equipment therein specifically described shall not amount to at least $3,520,000, then, in addition to said railroad equipment, 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, however, to the provisions of Section 4 of Article I of said Agreement) other new standard gauge railroad equipment, approved as to character by the Railroad Company, of such cost that the aggregate cost of all the Trust Equipment will be at least $3,520,000; and

WHEREAS, the actual cost of the equipment specifically described in said Lease has not amounted to said estimated cost of $3,520,000; and

WHEREAS, the Vendors have contemporaneously with the execution of this instrument contracted to acquire and to have transferred to the Trustee, other new standard gauge railroad equipment, consisting of five 70-ton, all steel, covered hopper cars at an estimated cost which when added to the actual cost of the equipment specifically described in said Lease will amount to at least said $3,520,000; and

WHEREAS, the Railroad Company approves the character of such new railroad equipment.

NOW, THEREFORE, THIS SUPPLEMENT TO SAID LEASE AND AGREEMENT WITNESSETH:

1. The description in the Lease of Railroad Equipment, dated as of April 1, 1948, between the Trustee and the Railroad Company, of the railroad equipment leased by the Trustee to the Railroad Company thereunder shall be and hereby is modified by the addition thereto of the following:

5, 70-ton, all steel, covered hopper cars, Nos. 99320 to 99324, both inclusive.

2. The Railroad Company covenants that, with all convenient speed after the execution hereof, it will cause this Supplement to Lease and Agreement to be duly filed, registered or recorded in all offices in which said Lease and Agreement are now filed, registered or recorded.

3. Except as hereinabove otherwise expressly provided, said Agreement and said Lease, and all the terms and provisions thereof, shall remain in full force and effect, and shall apply with full force and effect to said new additional railroad equipment.

4. This Supplement to said Lease and Agreement may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, the Vendors have hereunto set their hands and seals, and each the Trustee and the Railroad Company has caused its corporate name to be signed hereto by its officers thereunto duly authorized and its corporate seal to be hereto affixed, and duly attested, all as of the 15th day of November, 1948.

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:

E. J. FRIEDRICH E J Friedrich

H. H. CONLEY H H Conley

Attesting Witnesses.

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Continental Illinois National Bank
and Trust Company of Chicago,

By [signature]
R. M. KIMBALL *Vice-President.*

Attest: [signature]

V. P. NELSON *Assistant Secretary.*

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

E. J. FRIEDRICH [signature]

H. H. CONLEY [signature] *Attesting Witnesses.*

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

By [signature]
J. W. SEVERS *Vice President.*

Attest: [signature]
T. W. BURTNESS *Secretary.*

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

M. E. SHARP [signature]

C. G. METZLER [signature] *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 13th day of December, 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

[signature]
W. G. EVERIST *Notary Public in and for the State of Illinois, County of Cook.*

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 13th day of December, 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 an 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, 1952

[signature]
W. G. EVERIST *Notary Public in and for the State of Illinois, County of Cook.*

State of Illinois, Cook County, } ss.

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 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 GG (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:

DIESEL-ELECTRIC SWITCHING LOCOMOTIVES

6 1000 H.P. Diesel-electric switching locomotives, Nos. 1813 to 1818, both inclusive,

8 1000 H.P. Diesel-electric switching locomotives, Nos. 1850 to 1857, both inclusive,

DIESEL-ELECTRIC ROAD SWITCHING LOCOMOTIVES

4 1500 H.P. Diesel-electric road switching locomotives, Nos. 993 to 996, both inclusive,

DIESEL-ELECTRIC FREIGHT LOCOMOTIVES

10 3000 H.P. Diesel-electric freight locomotives (62:15 gear ratio), each comprised of a lead unit and booster unit and numbered, respectively, 81 A and 81 B to 85 A and 85 B, both inclusive, and 81 D and 81 C to 85 D and 85 C, both inclusive,

2 3000 H.P. Diesel-electric freight locomotives (65:12 gear ratio), each comprised of a lead unit and booster unit and numbered, respectively, 80 A and 80 B, and 80 D and 80 C,

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 estimated total cost of the railroad equipment specifically described in the last foregoing paragraph hereof is hereby certified to the Trustee to be not less than $6,060,000. Simultaneously with the execution of this Lease the Railroad Company shall certify to the Trustee the estimated total cost of each unit of the railroad equipment so specifically described.

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) Upon the delivery by the Trustee of the Trust Certificates in said Agreement defined, in accordance with the provisions of Section 2 of Article I of said Agreement, such amount, if any, whereby seventy-five per cent. (75%) of the aggregate estimated cost of the Trust Equipment, as certified to the Trustee by the Railroad Company as in this Lease prescribed, exceeds the principal amount of said Trust Certificates.

(b) 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 the difference between the cost of the Trust Equipment so delivered as certified to the Trustee and the amount of Deposited Cash payable in respect thereof pursuant to Section 3 of Article I of the Agreement; provided, however, that the aggregate of all amounts so paid to the Trustee shall never be less than 25% 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 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 subparagraph (b) of Section 4 of Article I of said Agreement. In case any certificate furnished pursuant to said subparagraph (b) of said Section 4 or to 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 GG, 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 1/5 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, 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 GG, 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-

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, 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 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 GG; 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 subparagraphs (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

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.

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

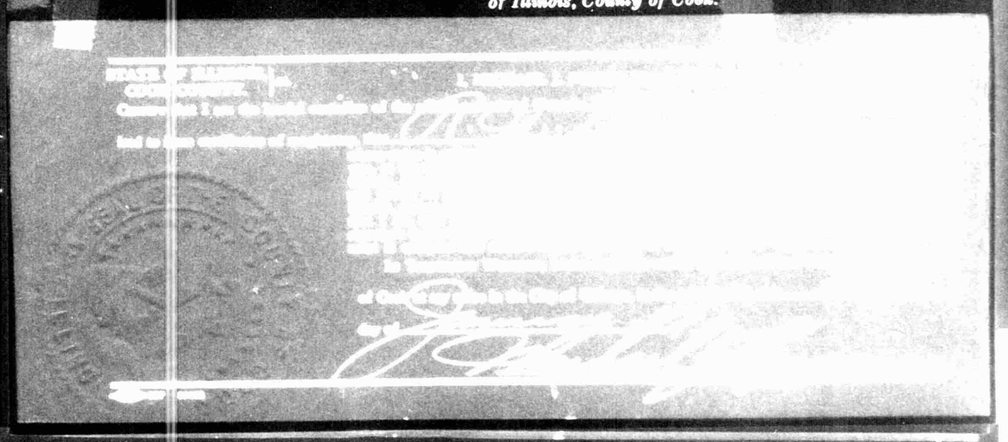
I, R. W. SPANGENBERG, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, DO HEREBY CERTIFY that on this 13th day of January, 1949, 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 in-

strument 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, 1951.

R. W. Spangenberg
R. W. SPANGENBERG
Notary Public in and for the State of Illinois, County of Cook.



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THIS AGREEMENT, dated as of January 1, 1949, 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 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 $4,540,000 to a fund to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series GG, 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 $227,000 each, payable respectively on January first and July first, in each year, beginning on July 1, 1949, and ending on January 1, 1959, 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 GG, 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 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 (excluding any accrued dividends paid upon the original issue of Trust Certificates), plus any interest allowed or earned thereon and any amounts added thereto pursuant to Section 6 of this Article I, plus the amount of cash deposited with or to the credit of the Trustee by the Railroad Company in the amount, if any, whereby seventy-five per cent. (75%) of the aggregate estimated cost, as set forth in said Lease, of the Trust Equipment exceeds the principal amount of the Trust Certificates, payable by the Railroad Company upon delivery of the Trust Certificates pursuant to the provisions 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. Whenever from time to time any of the Trust Equipment shall 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 which, together with all payments previously made out of Deposited Cash, shall equal seventy-five per cent. of the aggregate estimated cost, as set forth in said Lease, of the Trust Equipment then and theretofore so transferred and delivered to the Trustee, or seventy-five per cent. of the aggregate cost of the Trust Equipment then and theretofore so transferred and delivered to the Trustee, as certified to the Trustee pursuant to Section 4 of this Article I, whichever is less. The Trustee shall make payment of the remainder of such certified cost out of the instalment of rental payable on such delivery pursuant to subparagraph (b) of Article First of said Lease.

SECTION 4. The Trustee shall not pay out any Deposited Cash as provided by Section 3 of this Article I against

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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 thereof 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 in such bill of sale is free from any liens or encumbrances; 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.

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 para-

graph (b) above, as to the cost of all the Trust Equipment shall be delivered to the Trustee by the Vendors not later than January 1, 1950.

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 $6,060,000, 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 $6,060,000.

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 $4,540,000 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 subparagraph (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 2⅛ per cent per annum from January 1, 1949, payable semiannually on the first day of January and July in each year. $227,000 principal amount of the Trust Certificates shall become due and payable on January 1 and July 1 in each year beginning on July 1, 1949, and ending on January 1, 1959.

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 4,540, 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 GG

Total Issue not to exceed $4,540,000.

Dividends at the rate of 2⅛ 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 January 1, 1949 (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 GG, payable on.....1, 19....., unless prior payment hereof be required as hereinafter provided, and to dividends thereon at the rate of two and one-eighth per cent (2⅛%) per annum from January 1, 1949, to said date of maturity, payable semiannually on January first and July 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 January 1, 1949.

This certificate is one of an issue of certificates, in bearer form, in an aggregate principal amount not exceeding $4,540,000, 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 or a facsimile thereof to be printed hereon 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 January, 1949.

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 GG, 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

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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 two and one-eighth per cent (2⅛%) 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, or a facsimile of its corporate seal shall be thereon imprinted and, in either case, 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 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 2⅛ per cent per annum from January 1, 1949, 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-

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

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 subparagraphs (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-

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

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.

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,

By ..... *As Trustee,*
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. H. CONLEY
H. J. WAGNER
Attesting Witnesses.

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

By .....
J. W. SEVERS
VICE *President.*

Attest: .....
F. W. BURTNESS
Secretary.

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

RUTH E. HYBE
M. B. SHARP
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 14th day of January, 1949, 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.

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W. 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, 1952

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

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 14th day of January, 1949, 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

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 13th day of January, 1949, 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. PURTNESS ....., 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. PURTNESS 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. PURTNESS ..resides in Oak Park ..in the State of Illinois; that said J. W. SEVERS ..is VICE President and said T. W. PURTNESS ..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. PURTNESS, Secretary,

STATE OF WISCONSIN } ss.
Department of State }

Received this 16th day of January, A.D., 1950, at 10:30 o'clock A.M., and recorded in Vol. 48 of Railroad Mortgages on Pages 506-536, Incl.

Assistant Secretary of State

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, 1951

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

NORTHERN PACIFIC RAILWAY

EQUIPMENT TRUST OF 1949

AGREEMENT

Dated as of March 15, 1949

NORTHWESTERN IMPROVEMENT COMPANY
VENDOR,

THE FIRST NATIONAL BANK OF THE
CITY OF NEW YORK
TRUSTEE,

AND

NORTHERN PACIFIC RAILWAY COMPANY

LEASE

Dated as of March 15, 1949

THE FIRST NATIONAL BANK OF THE
CITY OF NEW YORK
TRUSTEE,

TO

NORTHERN PACIFIC RAILWAY COMPANY

THIS AGREEMENT, dated as of March 15, 1949, by and among NORTHWESTERN IMPROVEMENT COMPANY, a corporation duly organized and existing under the laws of the State of Delaware, of the City of St. Paul, State of Minnesota (hereinafter called the "Vendor"), of the first part,

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, a corporation duly organized and existing under the laws of the United States of America (hereinafter called the "Trustee"), of the second part, and

NORTHERN PACIFIC RAILWAY COMPANY, a corporation duly organized and existing under the laws of the State of Wisconsin (hereinafter called the "Company"), of the third part;

WITNESSETH:

THAT WHEREAS, the Company desires to obtain additional equipment in order that traffic over its lines may be properly transported, and it has been deemed expedient to make provision therefor through the medium of an equipment trust; and

WHEREAS, the Vendor has contracted to acquire, or will acquire or contract to acquire, the equipment specifically described in the Lease from the Trustee to the Company, annexed to this Agreement, hereinafter referred to as the "Lease", which equipment, together with the additional and substituted equipment provided for in this Agreement and in

cent (76%) of the cost thereof as specified in the certificate or certificates delivered pursuant to Section 5 (d) of this Article if such cost be less than such estimated cost.

The term "deposited cash" when used in this Agreement shall mean only the cash deposited with the Trustee as in Section 2 of this Article provided and, when required or indicated by the context, any cash deposited by the Company in lieu of, or pending replacement of equipment under Section 6 of the Lease, and bonds or other obligations of the United States of America purchased by the use of such cash pursuant to the provisions of the first paragraph of Section 6 of this Article, or the proceeds of the sale of such bonds or other obligations together with any deficit deposit provided for in the first and second paragraphs of said Section 6 of this Article.

The Company covenants that, contemporaneously with each such payment by the Trustee, the Company will pay to the Trustee, as advance rental provided in the Lease, amounts equal to the remainder of the cost of the equipment delivered, being not less than twenty-four per cent (24%) of the said cost. Thereupon the Trustee shall pay to the Vendor or upon its written order, by the use of such advance rental, the portion of the cost of the delivered Trust Equipment not discharged by the payment above described out of the "deposited cash".

SECTION 5. 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, described and specified therein by road number or numbers, has been delivered to such agent or agents and by such agent or agents delivered to the Company, and marked in accordance with the provisions of Paragraph 4 of the Lease.

(b) A bill or bills of sale to the Trustee of such Trust Equipment from (a) the manufacturer or owner thereof or (b) the Vendor; such bill or bills of sale to contain or be accompanied by a warranty or guaranty to the Trustee that the title to the Trust Equipment described therein is free from all liens and encumbrances.

(c) An opinion of counsel (who may be counsel of the Company) satisfactory to the Trustee, that the Trustee's title to the Trust Equipment described therein is free from all liens and encumbrances.

(d) A certificate or certificates as to the cost of such Trust Equipment, signed by the Vendor and by the President or any Vice President of the Company, which certificates shall state that the cost of such Trust Equipment is an amount therein specified; that such Trust Equipment is new standard-gauge railroad equipment, constructed of unused material; that it is of a character called for by this Agreement and the Lease, or is substituted equipment the acquisition of which is authorized by the second paragraph of Section 1 of this Article; and that it has been approved, received and accepted by the Company in accord with this Agreement and the Lease.

The cost of the Trust Equipment whenever referred to herein or in the Lease (except where specified as estimated cost) shall mean the actual cost thereof, including only such items as may properly be included in such cost under the accounting rules of the Interstate Commerce Commission. Any certificate as to cost may state that the cost of the Trust Equipment therein referred to is tentatively determined, subject to final adjustment as evidenced by final certificate or certificates of cost to be delivered to the Trustee within such time as the Trustee in its discretion in each instance may allow. The cost of the Trust Equipment shall be conclusively established by such certificate, or by such final certificate if a final certificate be required.

If the aggregate final cost of all the Trust Equipment acquired by the Vendor as specifically described in the Lease or in substitution therefor pursuant to the provisions of paragraph two of Section 1 of this Article should be less than the estimated cost of Seven Million Nine Hundred and Seventy thousand five hundred dollars ($7,970,500), the Vendor shall acquire and transfer, or cause to be acquired and transferred, to the Trustee, subject to all the terms of this Agreement, other new standard-gauge railroad equipment, other than work equipment, of such classes or types as may be approved by the Company, of substantially as good material and construction as the equipment specifically provided for in said Lease, and of such cost that the aggregate final cost of all the Trust Equipment acquired shall equal at least said estimated cost of Seven Million Nine Hundred Seventy thousand five hundred dollars ($7,970,500), of which aggregate final cost not more than seventy-six per cent. (76%) shall be paid from "deposited cash", to the extent thereof and not less than twenty-four per cent. (24%) by the Company as provided in Section 4 of this Article.

SECTION 6. The Trustee, upon instructions from the Company, shall, at any time prior to the vesting of title to the Trust Equipment in the Trustee, invest the "deposited cash" applicable to the acquisition of such Trust Equipment in such bonds or other obligations of the United States of America having maturities not later than March 15, 1964, hereinafter sometimes called "United States Government securities", as the Company shall designate. If, pursuant to the provisions of Paragraph 6 of the Lease, the Company is required to and pays over cash to the Trustee, the Trustee, upon written instructions from the Company, signed by the President or any Vice President, shall invest such cash in such United States Government securities. The Trustee shall collect the interest on any securities in which any part of the moneys may be invested from time to time and so long as the Company shall not be known to the Trustee to be in default under this Agreement or under the Lease, the Trustee shall pay over such interest as and when collected by it to or upon the written order of the Company without restriction or limitation upon its use; *provided*, that if at any time the market price of any such securities shall be less than the price at which they were purchased the Trustee shall out of the interest collected by it retain an amount sufficient to cover the deficit so long as such deficit shall exist.

At any time and from time to time the Trustee shall, upon written instructions from the Company, signed by the President or any Vice President, sell all or part of the United States Government securities that may have been purchased in accordance with the foregoing provisions; *provided*, that if the proceeds of the sale of such United States Government securities, plus any interest thereon withheld under the provisions of the next preceding paragraph, shall be less than

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the amount of the "deposited cash" or cash held under Paragraph 6 of the Lease applied to the purchase thereof, the Trustee shall restore to "deposited cash" or such other cash from rentals received by it under subparagraph (a) of subsection B of Paragraph 2 of the Lease, such amount or amounts as will be sufficient to make up the deficit. The trustee shall hold the proceeds of any sale of United States Government securities purchased from "deposited cash" or deficit deposit with respect to such securities under this paragraph as "deposited cash", and apply the same as provided in Section 4 of this Article. The Trustee shall hold the proceeds of any sale of United States Government securities purchased with cash deposited pursuant to Paragraph 6 of the Lease or any deficit deposit with respect to such securities for the purposes set forth in said Paragraph 6.

The Trustee shall be reimbursed, out of rent received by it under the provisions of subparagraph (a) of subsection B of Paragraph 2 of the Lease, for or on account of any premium or accrued interest required to be paid in the event of any such investment in United States Government securities, and for or on account of any expenses incurred in the event of any purchase or sale of such United States Government securities. The Company if not in default under the terms of the Lease or of this Agreement, or of any supplemental lease or supplemental agreement, shall be entitled to receive any amount realized from any sale by the Trustee of such United States Government securities in excess of the "deposited cash" or cash from Paragraph 6 of the Lease, applied to the purchase thereof.

SECTION 7. Any "deposited cash" remaining in the hands of the Trustee after the delivery of all of the original Trust

Equipment (meaning all the equipment specifically described in the Lease plus any additional equipment acquired pursuant to the last paragraph of Section 5 of this Article to make up any deficiency) and payment therefor in the manner provided in this Agreement shall be applied by the Trustee toward payment of the par value of the next maturing Trust Certificates then outstanding, when and as the same shall become payable, and, to the extent that such payments are so made by the Trustee out of the balance of the "deposited cash" in its hands, the said next maturing installment of rental payable pursuant to subparagraph (d) of subsection B of Paragraph 2 of the Lease shall be correspondingly reduced.

SECTION 8. Anything in this Agreement contained to the contrary notwithstanding, the aggregate par value of the Trust Certificates which shall be executed and delivered by the Trustee under this Agreement shall not exceed Six Million Dollars ($6,000,000), except as provided in Section 6 of Article II hereof in respect of replacement of Trust Certificates mutilated, defaced, lost, destroyed or stolen.

ARTICLE II

SECTION 1. Each of the Trust Certificates in definitve form shall represent an interest of the par value of One Thousand Dollars ($1,000) in the trust hereby created, and the bearer or registered holder of each Trust Certificate shall be entitled to receive dividends on said par value at the rate of two and three eighths (2⅜) percent per annum from March 15, 1949, payable semi-annually on the 15th day of March and September in each year commencing September 15, 1949. The par value of the Trust Certificates shall become due and payable as follows:

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Nos.	1 to 400, both inclusive,	on the 15th day of March	1950..$400,000.00
"	401 to 800, "	" " "	1951.. 400,000.00
"	801 to 1200, "	" " "	1952.. 400,000.00
"	1201 to 1600, "	" " "	1953.. 400,000.00
"	1601 to 2000, "	" " "	1954.. 400,000.00
"	2001 to 2400, "	" " "	1955.. 400,000.00
"	2401 to 2800, "	" " "	1956.. 400,000.00
"	2801 to 3200, "	" " "	1957.. 400,000.00
"	3201 to 3600, "	" " "	1958.. 400,000.00
"	3601 to 4000, "	" " "	1959.. 400,000.00
"	4001 to 4400, "	" " "	1960.. 400,000.00
"	4401 to 4800, "	" " "	1961.. 400,000.00
"	4801 to 5200, "	" " "	1962.. 400,000.00
"	5201 to 5600, "	" " "	1963.. 400,000.00
"	5601 to 6000, "	" " "	1964.. 400,000.00
	Total		$6,000,000.00

The due date and dividend rate shall appear upon the face of each Trust Certificate. Trust Certificates shall be numbered from 1 consecutively upwards 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 Trust Certificates.

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

[FORM OF TRUST CERTIFICATE]

$1,000 No. .....

NORTHERN PACIFIC RAILWAY
EQUIPMENT TRUST OF 1949
Total Issue $6,000,000

DIVIDENDS AT THE RATE OF TWO AND THREE EIGHTHS (2⅜) PER CENT PER ANNUM, PAYABLE MARCH 15 AND SEPTEMBER 15.

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, TRUSTEE.

Par Value payable March 15, 19 ....

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, Trustee under an Agreement dated as of March 15, 1949, by and among NORTHWESTERN IMPROVEMENT COMPANY, of the first part, THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, of the second part, and NORTHERN PACIFIC RAILWAY COMPANY, of the third part, hereby certifies that the bearer, or, if this Certificate be registered as to par value, the registered holder hereof, is entitled to an interest of the par value of One Thousand Dollars ($1,000) in Northern Pacific Railway Equipment Trust of 1949, and, as hereinafter more fully provided, is entitled to the payment of said par value on March 15, 19.., upon surrender of this certificate to the undersigned at its principal office in the City of New York, State of New York, and to payment, until said last mentioned date, of dividends on said par value at the rate of two and three

eighths (2⅜) percent per annum from March 15, 1949, semi-annually on March 15 and September 15 in each year, according to the tenor of the dividend warrants hereto annexed, upon presentation and surrender of such warrants, as they severally mature, to the undersigned at its said office, both the par value of this certificate and the dividends thereon being payable 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, but only from and out of rentals when received by the undersigned Trustee pursuant to the provisions of said Agreement dated as of March 15, 1949, and of a Lease of Railroad Equipment made by the First National Bank of the City of New York, Trustee, to Northern Pacific Railway Company, dated as of March 15, 1949, or from and out of any moneys otherwise received by the Trustee under the provisions of said Agreement and Lease.

This certificate is one of an issue of Six Million Dollars ($6,000,000) aggregate par value of certificates for One Thousand Dollars ($1,000) par value each, similar except as to dates of maturity, all issued or to be issued under said Agreement, under which said railroad equipment (or "deposited cash" and cash or United States Government securities in which such cash may be invested as provided in said Agreement) and said Lease thereof are held by said Trustee in trust for the equal benefit of the holders of the interests represented by said certificates, to which Agreement and Lease, filed with the Trustee at its said office in the City of New York, State of New York, reference is made for a full statement respecting the terms and conditions governing the issuance of this certificate, the rights and obligations of the Company, the duties and immunities of the undersigned and the rights of the bearer or registered holder hereof thereunder.

This certificate may be registered as to par value at the principal office of the Trustee in the City of New York, State of New York, in the name of the holder hereof, and such registration shall be noted hereon by or on behalf of the Trustee. Thereafter title to the interest represented by this certificate shall pass only by transfer registered at said office, unless and until a transfer to bearer shall have been similarly registered and noted hereon. Such registration shall apply only to the par value of this certificate and not to the dividend warrants hereunto attached, which shall continue to be payable to bearer and transferable by delivery.

Every taker and holder of this certificate, and of the attached dividend warrants, by accepting the same agrees with the undersigned and with every subsequent taker and holder hereof and thereof that this certificate (unless registered as to par value), and such warrants, shall be transferable with the same effect as in the case of a negotiable instrument payable to bearer, by delivery by any person having possession of the same, howsoever such possession may have been acquired; that the undersigned may treat the bearer of this certificate, or the registered holder hereof if this certificate be registered as above provided, and the bearer of the warrants attached hereto, whether or not this certificate be so registered, as the absolute owner of this certificate or of said warrants as the case may be, for all purposes; and that the undersigned shall not be affected by any notice to the contrary.

In case of default in the performance or observance of any of the covenants of Northern Pacific Railway Company in said Agreement or Lease contained, the par value represented by this certificate may be declared due and payable, as provided in said Agreement.

Neither this certificate nor the dividend warrants attached hereto shall be deemed in anywise a promise to pay of the undersigned except from and out of rentals or other moneys received by the undersigned as Trustee pursuant to said Agreement and Lease, dated as of March 15, 1949.

IN WITNESS WHEREOF, the Trustee has caused this certificate to be signed by its President or one of its Vice Presidents and its facsimile corporate seal to be hereunto affixed and to be attested by its Cashier or one of its Assistant Cashiers, and has caused dividend warrants bearing the facsimile signature of its Cashier to be attached hereto, as of the 15th day of March, 1949.

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,

Trustee,

By .....
Vice-President.

Attest:

.....
Assistant Cashier.

[FORM OF DIVIDEND WARRANT]

No. $11.88*

Due to the bearer hereof on the fifteenth day of , 19 , on the surrender hereof at the principal office of The First National Bank of the City of New York, in the City of New York, State of New York, Eleven and 88/100 Dollars ($11.88), payable in such coin or currency of the United

*The even numbered warrants shall be for dividends in the amount of Eleven and 87/100 ($11.87).

States of America as at the time of payment is legal tender for public and private debts, being the semi-annual dividend then due on Certificate No. of Northern Pacific Railway Equipment Trust of 1949, but only out of rentals or other moneys received by the undersigned pursuant to the Agreement and Lease, dated as of March 15, 1949, referred to in said Certificate, and as therein provided.

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,

Trustee,

By .....
Cashier.

[FORM OF GUARANTY]

Northern Pacific Railway Company, for a valuable consideration, hereby unconditionally guarantees to the bearer, or, if registered as to par value, to the registered holder, the prompt payment of the par value of the within Certificate and to the bearer of any of the appurtenant dividend warrants the prompt payment of the dividends specified in such warrants, in accordance with the terms of said Certificate and the Agreement and Lease referred to therein.

Dated March 15, 1949.

NORTHERN PACIFIC RAILWAY COMPANY,

By .....
Vice-President.

[FORM OF TAX LEGEND]

All United States taxes payable in respect of the issue of this certificate have been paid and the required stamps have been affixed to an original counterpart of the within mentioned agreement in the possession of the Trustee and duly cancelled.

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 facsimile corporate seal shall be thereunto affixed and attested by its Cashier or one of its Assistant Cashiers. 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 as effective and binding and shall 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 thereto attached shall be authenticated by the facsimile signature of the present or any future Cashier of the Trustee; any such facsimile signature shall be effective and binding notwithstanding the fact that such Cashier shall have ceased to be such officer at the time when any such Trust Certificate shall be issued and delivered as herein provided. Before executing or delivering any Trust Certificates, all matured dividend warrants thereto appertaining shall be detached and cancelled by the Trustee.

SECTION 4. Temporary printed Trust Certificates without dividend warrants, or with one or more dividend warrants, and with or without provisions for registration, in such form and denominations as the Trustee may determine, may be issued by the Trustee, upon which shall be endorsed

the guaranty of the Company in the form aforesaid with such changes as may be appropriate, and these temporary Trust Certificates shall be exchangeable, without cost to the holder, upon surrender for definitive Trust Certificates of like maturity dates, having endorsed thereon the guaranty of the Company in the form aforesaid, when the same shall have been prepared. Each of such temporary Trust Certificates shall designate the date of maturity of the definitive Trust Certificate or Certificates for which it is exchangeable, and until such exchange such temporary Trust Certificates shall be subject to the provisions and entitled to the same benefits of this Agreement in all respects as such definitive Trust Certificates, including the payment of dividends and the guaranty by the Company.

SECTION 5. The Trust Certificates shall be negotiable and shall pass by delivery unless registered as to par value in the manner in this Agreement provided. Any of the Trust Certificates may be registered as to the par value thereof in the name of the holder on the books of the Trustee to be kept at its principal office in the City of New York, State of New York, and such registration shall be noted on the Trust Certificate by the Trustee. Thereafter no transfer thereof shall be valid unless made at said office by the registered holder thereof in person, or by his duly authorized attorney, and similarly noted thereon; but the same may be discharged from registration and transferred to bearer as before. Such registration, however, shall not affect the dividend warrants attached to the Trust Certificates so registered, but every such dividend warrant shall continue to be transferable with the same effect as in the case of a negotiable instrument payable to bearer, by delivery thereof by any person in posses-

sion of the same, however such possession may have been acquired.

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 holder 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 shall require the payment by the holder of a sum sufficient to reimburse it for any tax, stamp tax or other governmental charge connected therewith.

SECTION 6. In case any Trust Certificate or the dividend warrants attached thereto shall become mutilated or defaced or be lost, destroyed or stolen, then on the terms herein set forth, and not otherwise, the Trustee shall upon the written request of the Company execute and deliver a new Trust Certificate, and the Company at the request of the Trustee shall execute its guaranty thereon, with all unmatured dividend warrants appertaining thereto, of like maturity, dividend rate, 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 including dividend warrants, if any, or in lieu of or in substitution for the same if lost, destroyed or stolen, and the Trus-

tee shall make payment of any matured and unpaid dividend warrants appertaining to the same. The applicant for a new Trust Certificate, including dividend warrants, if any, shall furnish to the Trustee and to the Company evidence to their satisfaction of the loss, destruction or theft of such Trust Certificate or dividend 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 or dividend warrants, and also such security and indemnity as may be required by the Trustee and by the Company in their discretion; and shall pay all expenses and charges of such substitution or exchange. All Trust Certificates and dividend warrants 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 or dividend 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, including counsel fees, and of reasonable compensation of the Trustee, including any thereof incurred in connection with the enforcement of any of the provisions hereof or of the Lease, and of all taxes, assessments and governmental charges assessed upon the property included in the trust and all taxes and governmental charges herein mentioned for which the Trustee, as such, may be liable, and of the other rentals and of the other amounts provided for herein or in the Lease.

SECTION 2. The Company convenants and agrees and guarantees that the bearer or registered holder of each of the Trust Certificates shall receive the par value of One Thousand Dollars ($1,000), or, in the case of temporary Trust Certificates, the par value therein expressed to be payable, 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, when and as the same shall become due and payable, whether at the maturity thereof or otherwise under the provisions thereof or of this Agreement, and that the bearer of each dividend warrant shall receive the dividend specified therein in like coin or currency at the rate of two and three eighths (2⅜) percent per annum, from March 15, 1949, to the date of maturity of such Trust Certificate, at the times and place and otherwise as expressed in such Trust Certificate and (except in the case of temporary Trust Certificates without dividend warrants) in the dividend warrants thereto attached; and the Company further covenants and agrees to endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by the Trustee, its guaranty of the prompt payment thereof and of the dividends thereon, in 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 without the corporate seal of the Company which is hereby expressly waived. In case the officer of the Company who shall have signed said guaranty shall cease to be such officer of the Company before the Trust Certificates shall have been issued and delivered by the Trustee, or shall not have been such officer on the date of the Trust Certificates, such guaranty shall, nevertheless, be as effective and binding upon the Company as though the person who signed such

guaranty had not ceased to be such officer of the Company or had been such officer on the date of the Trust Certificates.

SECTION 3. The Company covenants and agrees that it will pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of any debt, tax, charge, assessment, obligation or claim which, if unpaid, might become a lien or charge upon or against any of the Trust Equipment; but this provision shall not require the payment of any such debt, tax, charge, obligation or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings unless such contest will, in the judgment of the Trustee, materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates.

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, or connected with the preparation, execution, recording, rerecording, registration, reregistration, filing and refiling hereof or of the Lease and of any instrument executed under the provisions hereof or of said Lease in respect of the Trust Equipment or of any equipment or parts used to replace any of the same.

The Company covenants that it will cause this Agreement and the Lease and all supplemental leases and agreements which may be executed under the terms of this Agreement or of the Lease, to be duly filed, registered or recorded and thereafter to be duly refiled, reregistered or rerecorded in all States wherein are situated railroad lines owned or operated

The holders of a majority in par value of the Trust Certificates then outstanding shall have the right from time to time, if and when the Trustee shall have been indemnified as hereinafter in Article V provided, to direct which of the proceedings provided for herein and in the Lease shall be taken for the enforcement of the remedies contained herein and therein.

The foregoing provisions, however, are subject to the condition that if at any time after the Trust Certificates shall have been declared due and payable, as provided in this Agreement, but before March 15, 1964, all past due Trust Certificates and all arrears of dividends (with interest, to the extent permitted by law, upon all past due Trust Certificates and all arrears of dividends at the rate of four per cent. (4%) per annum), the compensation, expenses and liabilities of the Trustee and all other sums which shall have become due and payable under this Agreement or under the Lease, other than the then outstanding Trust Certificates or rental installments which would not then have become due except for having been so declared due and payable, shall be paid, or funds for the payment thereof shall be in the hands of the Trustee, 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 the 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 may, and if so requested by the holders of a majority in par value of the Trust Certificates then outstanding and which would not have matured except for having been so declared due and payable shall, by written notice to the Company, waive the de-

fault or defaults, under this Agreement and under the Lease, and the Agreement and 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 taking possession of 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, nor any delay or indulgence granted to the Railroad Company by the Trustee, shall affect the obligations of the Company under this Agreement or under the Lease or under its guaranty.

ARTICLE V

SECTION 1. The Trustee hereby accepts the trusts imposed upon it by this Agreement and the Lease, and covenants and agrees to perform the same as herein and therein expressed.

SECTION 2. The Trustee covenants and agrees to apply and distribute the rentals received by it under subdivision B of Paragraph 2 of the Lease, when and as the same shall be received, for the following purposes and in the following order, to-wit:

(a) To the payment of the necessary and reasonable expenses of the trust, including compensation, expenses and liabilities provided for in this Agreement and all expenses connected with the Trust Equipment and the Lease thereof, including the purposes referred to in sub-

paragraph (a) of subdivision B of Paragraph 2 of the Lease;

(b) To the payment of any and all taxes, assessments and other governmental charges assessed or levied upon the income or property of the trust, or the Agreement and Lease evidencing the same, which the Trustee as such may be required to pay;

(c) To the payment of the dividend warrants attached to the Trust Certificates, or in the case of the issue of temporary Trust Certificates without dividend warrants, to the payment of the dividends payable thereon, when and as such dividend warrants or dividends shall become payable, subject to the provisions of Section 1 of Article IV hereof;

(d) To the payment of the par value of the Trust Certificates outstanding when and as the same shall become payable according to the terms thereof or hereof, subject to the provisions of Section 1 of Article IV hereof; and

(e) To the payment of interest, to the extent permitted by law, upon any due and unpaid dividends on the Trust Certificates and upon any due and unpaid amounts of par value of Trust Certificates, at the rate of four per cent. (4%) per annum.

Nothing herein or in the Trust Certificates or the Lease contained shall be deemed to impose on the Trustee or on the Company any obligation to pay to the bearer or registered holder of any Trust Certificate or to the bearer of any dividend warrant any amount required by any law of the United

States of America or of any State or subdivision thereof or of any Territory or of the District of Columbia to be withheld from the amount payable to the holder of any Trust Certificate or dividend warrant.

SECTION 3. The Trustee shall cause to be kept, at its principal office in the City of New York, State 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 it may prescribe, the par value of the Trust Certificates, but not the dividend warrants attached thereto or any other dividend warrants.

For any registration, transfer or discharge from registration, the Trustee shall require the payment by the holder of a sum sufficient to reimburse it for any tax, stamp tax or other governmental charge connected therewith.

SECTION 4. The Trustee shall not be required to undertake any act or duty in the way of taking care of or taking possession of the Trust Equipment or to undertake any other act or duty under this Agreement or the Lease until indemnified to its satisfaction by the Company or by one or more holders of the Trust Certificates against all liability and expenses. No duty of insurance or of repair or protection of any of the Trust Equipment is incumbent upon the Trustee, nor shall it be responsible for the filing, registration or recording or the refiling, reregistration or rerecording of this Agreement or of the Lease or of any other instrument executed pursuant hereto or thereto; and the Trustee may issue and deliver Trust Certificates in advance of such filing, registration or recording. In accepting delivery of and making payment for the Trust Equipment hereunder, the Trustee

may rely upon and shall be fully protected by the certificates, bills of sale and opinions of counsel to be furnished to it under Section 5 of Article I of this Agreement and shall not be required to make any further investigation of or inquiry concerning the matters covered thereby.

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 twenty-five per cent. (25%) in aggregate par value of the Trust Certificates then outstanding and unless indemnified to its satisfaction against expense and liability and unless also furnished with proof satisfactory to it as to the ownership of the Trust Certificates and dividend 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 or in the Lease specifically given to the Trustee either to determine whether it shall take action 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 twenty-five per cent. (25%) in aggregate par value of the Trust Certificates then outstanding shall have been made upon the Trustee, and after indemnity satisfactory to it shall have been provided, the Trustee shall decline, fail or neglect for ninety (90) days after the furnishing of such indemnity to institute proceedings or take action for the execution and enforcement of the trust; nor shall any holder have any such

right if the holders of a majority of the par value of the Trust Certificates shall have directed that no action be taken.

SECTION 7. The Trustee may conclusively assume for all purposes that the Company is not in default under the terms hereof or of the Lease until notified in writing to the contrary by the holders of not less than ten per cent. (10%) in aggregate par value of the Trust Certificates then outstanding, which notice shall distinctly specify the event of default desired to be brought to the attention of the Trustee.

SECTION 8. The Trustee shall not be liable on account of any action of the Trustee based upon any notice, consent, order, certificate, warrant or other paper or instrument believed by it to be genuine or authentic or to be signed by the proper party or parties.

SECTION 9. The Trustee shall not be liable for any delay in the delivery of any of the Trust Equipment, or for any default on the part of the manufacturers thereof or of the Vendor, or for any defect in any of said Trust Equipment, nor shall anything herein or in the Lease be construed as a warranty on the part of the Trustee in respect thereof or as a representation in respect of the value thereof or in respect of the title thereto.

The Trustee may perform its powers and duties hereunder and under the Lease by or through such attorneys, agents and servants as it shall appoint, and shall be entitled to rely upon the advice of counsel (who may be counsel of the Company), and shall be protected by the advice of such counsel in anything done or omitted to be done by it in accordance with such advice. The Trustee shall not be answerable for any act or omission to act in connection with

the trust hereby created unless the same shall happen through its own negligence or wilful default. The Trustee shall not be responsible in any way for the recitals herein or in the Lease contained or for the execution or validity of this Agreement or of the Lease or of the Trust Certificates, or the guaranty by the Company, or for any mistake of fact or law.

The Trustee shall be entitled to receive payment of its liabilities and all its reasonable expenses and disbursements hereunder and under the Lease, including reasonable counsel fees, and to receive reasonable compensation for all services rendered by it in the execution of the trust hereby created, all of which shall be paid by the Company or in default of such payment out of the rentals or proceeds or avails of the Trust Equipment.

The Trustee in its individual capacity may own, hold and dispose of Trust Certificates and dividend warrants with the same rights which it would have if it were not Trustee.

SECTION 10. If at any time the Trustee shall desire to divest itself of title to the Trust Equipment and to terminate its duties and obligations and rights under this Agreement, the Lease and the Trust Certificates, it shall so notify the Company in writing and the Company shall thereupon designate in writing to the Trustee a national bank or a trust company, qualified as below specified to serve as successor to the Trustee until and unless a substituted successor trustee shall be appointed by the holders of Trust Certificates as hereinafter provided, to which may be assigned the entire right, title and interest of the Trustee in the Trust Equipment and in which may be vested the rights, powers, duties and obligations of the Trustee under this Agreement, the Lease and the Trust Certificates. Upon the transfer and delivery of all moneys, United States Government securities,

if any, and Trust Equipment held by the Trustee, and of all books, records, documents and instruments necessary for the execution of the trust, and payment of its compensation, expenses and liabilities, and upon the execution by the retiring Trustee of such instruments of transfer as reasonably may be required by the successor, and upon acceptance by the successor of the assignment and of the trust, the retiring Trustee shall be relieved and discharged of all the title, rights, powers, duties and obligations of the trust under this Agreement, the Lease and the Trust Certificates, and the same shall become vested in such successor as trustee, and every provision of this Agreement and the Lease applicable to the retiring Trustee shall apply to such successor trustee with like effect as if originally named herein and therein in the place and stead of the party of the second part. In the event that the Company shall fail to designate such a successor by instrument in writing delivered to the retiring Trustee within fifteen (15) days from the date of receipt of such notice in writing from the retiring Trustee, the retiring Trustee may thereupon designate such successor trustee. In case a successor trustee shall be appointed at any time by the Company or by the retiring Trustee pursuant to the foregoing provisions of this Section, the holders of a majority in par value of the Trust Certificates then outstanding shall have the right, at any time within six months after the date of said written notice received by the Company under this Section, to appoint and substitute a successor trustee chosen by such majority of said holders. Such appointment shall be made by an instrument in writing executed by such majority of such holders, in duplicate, and by delivery of one copy thereof to the Company and one copy thereof to the successor trustee appointed by the Company or by the Trustee under this Section. Thereupon, within fifteen (15)

days after such delivery of such written instrument of appointment, such successor trustee shall transfer and deliver to such substituted successor trustee all moneys, United States Government securities, if any, and Trust Equipment held by it and all books, records, documents and instruments necessary for the execution of the trust, and shall execute such instruments of transfer as reasonably may be required by the substituted successor trustee; and upon acceptance thereof by such substituted successor trustee the retiring successor trustee shall be relieved and discharged of all the title, rights, powers, duties and obligations of the trust under this Agreement, the Lease and the Trust Certificates, and the same shall become vested in such substituted successor trustee, and every provision of this Agreement and the Lease applicable to the successor trustee shall apply to such substituted successor trustee with like effect as if originally named herein and therein in the place and stead of the party of the second part.

In any such event such successor trustee or substituted successor trustee shall execute and deliver to the Company an acceptance of the trust in such form as the Company shall reasonably request, and the Company shall execute all such writings recognizing the transfer of title as aforesaid and all such instruments of further assurance or otherwise as may be reasonably requested by the successor trustee or substituted successor trustee in the premises, and shall do and perform any and all acts necessary to establish and maintain the title and rights of the successor trustee or substituted successor trustee in and to the Trust Equipment. Every successor trustee or substituted successor trustee shall be a national bank or a trust company doing business in the Borough of Manhattan, the City of New York, State of New York, and having a capital and surplus aggregating at least

Five Million Dollars ($5,000,000), if there be such national bank or trust company willing and able to accept the trust upon reasonable and customary terms.

Any corporation resulting from any merger or consolidation to which the Trustee or its corporate successor shall be a party, or any corporation shown to the satisfaction of the Company to have succeeded in any manner to the business of the Trustee as a whole or substantially as a whole, provided in either event such corporation shall be one having corporate power to act as trustee hereunder organized under the laws of the United States of America or of the State of New York, doing business in the Borough of Manhattan, the City of New York, State of New York, and having a capital and surplus aggregating at least Five Million Dollars ($5,000,000), shall be the successor trustee under this Agreement and the Lease 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.

All of the provisions of this Section relating to retirement of the Trustee, appointment of successor trustee by the Company, by the Trustee or by the holders of Trust Certificates, and succession (whether by appointment or otherwise) and qualification of successor trustees shall apply to any future trustee in like manner as to the party of the second part.

ARTICLE VI

No recourse under any obligation, covenant or provision of this Agreement or of the Lease, 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, said Lease 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 said Lease or in the guaranty of the Company respecting any of the Trust Certificates or dividend warrants issued hereunder, or implied therefrom or from any present or future law relative thereto, and that any and all 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 of said Lease and the issue of such Trust Certificates and dividend warrants.

ARTICLE VII

Any request or other instrument provided by this Agreement or the Lease to be signed or executed by holders of Trust Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such holders in person, or by an agent or attorney appointed by an instrument in writing. Proof of the execution of any such request or other instrument, or of a writing appointing any such agent or attorney, or of the holding by any person of Trust Certificates, shall be conclusive in favor of the Trustee with regard to any action taken by the Trustee under such request or other instrument, and may be relied upon by the Trustee for any purpose of this Agreement or the Lease, if made in the following manner:

(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 (i) by the certificate of any notary public or of any other officer authorized to take acknowledgments of deeds to be recorded in the state where the acknowledgments may be taken, certifying that the person signing such request or other instrument acknowledged to him the execution thereof, or (ii) by the affidavit of a witness to such execution.

(b) The amount of unregistered Trust Certificates held by any person executing any such request or other instrument as a holder of Trust Certificates, 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, if deemed satisfactory by the Trustee, showing that at the date therein mentioned such person had on deposit with or exhibited to such depositary the unregistered Trust Certificates numbered and described in such certificate. The Trustee may presume the continuance of any such holding unless and until it shall receive proof satisfacory to it to the contrary.

(c) The ownership of Trust Certificates registered as to par value shall be proved only by the registration books of the Trustee.

ARTICLE VIII

At the termination of the Lease to the Company, any moneys and securities derived from this Agreement or the

Lease remaining in the hands of the Trustee, after paying the par value of and any dividends upon the Trust Certificates, and the expenses and liabilities of the Trustee, including its reasonable compensation and counsel fees, shall be paid or delivered to the Company.

ARTICLE IX

Nothing in this Agreement or in the Lease 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 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 undertakings of this Agreement and the Lease shall be for the sole and exclusive benefit of the parties hereto and their successors and assigns and, subject to the provisions of Section 6 of Article V of this Agreement, of the holders of the Trust Certificates and dividend warrants.

ARTICLE X

The term "Trustee" as used herein and in the Lease shall be held and construed to mean The First National Bank of the City of New York and, unless otherwise indicated by the context, any successor trustee or substituted successor trustee appointed pursuant to the provisions of Section 10 of Article V hereof, and the word "Company" shall be held and construed to mean and include Northern Pacific Railway Company, its successors and assigns; and the word

"holder" shall include the plural as well as the singular number and, unless otherwise indicated by the context, shall mean and include the bearer of any unregistered Trust Certificate and of any dividend warrant and the registered holder of any registered Trust Certificate. The liabilities of the Trustee wherever referred to herein or in the Lease shall be held and construed to mean all liabilities incurred by the Trustee arising out of or connected with this Agreement or the Lease or the ownership or use of any of the Trust Equipment other than those liabilities resulting from its own negligence or wilful default. The term "Trust Equipment", wherever used herein or in the Lease, unless otherwise indicated by the context, is intended to include all railroad equipment at any time covered by the Lease or any supplemental lease or this Agreement or required or intended so to be.

Whenever under the provisions hereof or of the Lease it is necessary or proper for any notice or demand to be made to or upon the Company, or the Trustee, 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 by depositing a written statement thereof, securely enclosed in a postpaid wrapper, for transmission by registered United States mail, directed to the Company at 14 Wall Street, New York, New York, or to such other address as the Company at any time shall designate by written notice to the Trustee, or directed to The First National Bank of the City of New York, at its principal office at 2 Wall Street, New York, New York, or to such other address as the Trustee at any time shall designate by written notice to the Company, and an affidavit by any person representing or acting on behalf of the Trustee or of the Company, respectively, as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such notice or the making of such demand.

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This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

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

IN WITNESS WHEREOF, the Vendor and the Trustee and the Company 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 March 15, 1949.

NORTHWESTERN IMPROVEMENT COMPANY,

By .....
Vice President.

(SEAL)

Attest:

.....
Secretary.

Signed, sealed and delivered by NORTHWESTERN IMPROVEMENT COMPANY in the presence of:

.....

.....
As Witnesses.

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,

By .....
Vice President.

(SEAL)

Attest:

.....
Assistant Cashier.

NORTHERN PACIFIC RAILWAY COMPANY,

By .....
Vice President.

(SEAL)

Attest:

.....
Assistant Secretary.

Signed, sealed and delivered by THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK and NORTHERN PACIFIC RAILWAY COMPANY, in the presence of:

.....
F. J. CONNOLLY

.....
N. L. WALTER
As Witnesses.

(United States Internal Revenue Stamps for $6600 have been affixed to an original counterpart hereof in the possession of the Trustee and have been duly cancelled.)

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STATE OF MINNESOTA, }
COUNTY OF RAMSEY, } ss.

I, C. B. Theits, 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 24th day of February A. D. 1949, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument bearing date as of March 15, 1949, Robert S. Macfarlane and A. M. Gottschald, each to me personally known and known to me to be respectively the Vice President and Secretary of Northwestern Improvement 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 to be duly authorized to make this acknowledgment as hereinafter stated, and the said Robert S. Macfarlane and A. M. Gottschald, 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 Robert S. Macfarlane resides at 1834 Parkside Drive, Seattle 2, Washington, and that the said A. M. Gottschald resides at 929 West Arlington Avenue, St. Paul, Minnesota; and said Robert S.

the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Robert S. Macfarlane and A. M. Gottschald, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the by-laws of such corporation and by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and 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.

.....
Notary Public
C. B. THEITS, Notary Public, Ramsey Co., Minn.
My Commission Expires January 24, 1951.

LEASE

THIS LEASE AGREEMENT, dated as of March 15, 1949, by and between THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, a corporation duly organized and existing under the laws of the United States of America (hereinafter called the "Trustee"), of the first part, and NORTHERN PACIFIC RAILWAY COMPANY, a corporation duly organized and existing under the laws of the State of Wisconsin (hereinafter called the "Company"), of the second part,

WITNESSETH: THAT

WHEREAS, by a certain Agreement (hereinafter called the "Agreement"), bearing even date herewith, among NORTHWESTERN IMPROVEMENT COMPANY, Vendor, THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, as Trustee, and NORTHERN PACIFIC RAILWAY COMPANY, a counterpart original whereof is hereto prefixed and made a part hereof, there was constituted "NORTHERN PACIFIC RAILWAY EQUIPMENT TRUST OF 1949", under which the equipment hereinafter described has been or will be transferred to the Trustee and the title thereto vested in the Trustee, and leased to the Company hereunder,

NOW, THEREFORE:

1. In consideration as well of the sum of one dollar paid by the Company to the Trustee at or before the ensealing and delivery hereof, the receipt whereof is hereby acknowledged, as of the rents and covenants hereinafter mentioned to be paid, kept and performed by the Company, the Trustee has

let and leased, and by these presents does hereby let and lease, to the Company for the term of fifteen (15) years from and after March 15, 1949, unless sooner terminated as hereinafter provided, all the following described new standard-gauge railroad equipment, constructed of unused material, whether the same be owned by the Trustee at the date hereof or be hereafter acquired by it, to-wit:

No. of Units	Description of Equipment	Road Nos. (Both Inclusive)	Estimated Unit Prices
500	Self-clearing hopper cars 70-ton capacity	71000-71499	$ 5,100
250	42-foot 80,000-pound capacity steel-sheathed wood-lined refrigerator cars	91250-91499	9,630
250	70-ton Hart selective ballast cars	87500-87749	5,000
50	16,000 gallon 70-ton steel tank cars	102000-102049	6,740
2	4500 H. P. Diesel passenger locomotives	6507-6508	579,000
2	Lightweight steel sleeping cars, 22-passenger capacity, with 10 roomettes and 6 double bedrooms	364-365	134,000

together with such other railroad equipment as may be acquired for said trust in substitution for any of the equipment above described, or in addition thereto, and subjected to this Lease as hereinafter provided (hereinafter collectively called the "Trust Equipment").

The estimated cost of the railroad equipment above specifically described, when completed, is not less than Seven

Million Nine Hundred Seventy Thousand Five Hundred Dollars ($7,970,500), the respective estimated unit prices being as hereinbefore set out.

If strikes, material shortages, or other causes beyond its control prevent the Vendor from acquiring any of the Trust Equipment above specifically described, then to the extent that such acquisition is prevented, at the election of the Company, there may be acquired and subjected to this Lease as and when acquired, 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 Company, and of a total cost not less than the estimated cost of the equipment in place of which it was acquired. The substituted Trust Equipment shall be deemed a part of the Trust Equipment for all purposes including the payment of "deposited cash" in respect of the cost thereof, and the equipment in place of which the substituted equipment is acquired shall be eliminated from the Trust Equipment. The Trustee shall execute to the Company a supplemental lease of such substituted equipment, subjecting it to all the terms and conditions hereof.

If the aggregate final cost of all the Trust Equipment acquired by the Vendor as specifically described above or in substitution therefor pursuant to the provisions of paragraph two of Section 1 of Article I of the Agreement should be less than Seven Million Nine Hundred Seventy Thousand Five Hundred Dollars ($7,970,500), then in addition to that equipment there shall be acquired by said Vendor, and subjected to this Lease, other new standard-gauge railroad equipment, other than work equipment, of such classes or types as may be approved by the Company, of substantially as good material and construction as the equipment above specifically

described, and of such cost that the aggregate final cost of all the Trust Equipment acquired will be at least said sum; and the Trustee shall execute to the Company a supplemental lease thereof, describing the same and stating the estimated cost thereof, upon and subject to the terms and conditions hereof and of the Agreement and such additional equipment shall be part of the Trust Equipment, subject to all the terms and conditions hereof and of the Agreement in all respects as though it had been part of the original Trust Equipment herein described.

As and when any of the Trust Equipment shall from time to time be transferred and delivered to the Trustee under the Agreement and marked in accordance with the provisions of Paragraph 4 hereof, the same shall be delivered by the Trustee to the agents of the Company at the place or places provided for in Section 1 of Article I of the Agreement 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 Company hereunder in all respects as if the same had been so delivered simultaneously with the execution and delivery hereof, and at and for the rent herinafter set out, and upon the terms, conditions and covenants following.

2. The Company hereby accepts (subject to the terms of the Agreement) this Lease of the Trust Equipment and hereby agrees to accept delivery and possession hereunder of said Equipment as hereinbefore provided; and the Company covenants and agrees to pay, in such coin or currency of the United States of America as at the time of payment shall be

legal tender for public and private debts, to the Trustee, or its assigns, at the principal office of the Trustee, in the Borough of Manhattan, the City of New York, State of New York, 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 provided in said Agreement, the Company shall pay to the Trustee, as advance rental under this Lease, sums which in the aggregate shall be equal to the difference between the total cost of the Trust Equipment and the portion of such cost to be provided out of the net proceeds of sale of the Trust Certificates to be issued as set forth in the Agreement, the intention being that when all of the Trust Equipment shall have been delivered to the Trustee, the Company shall have paid or shall pay to the Trustee, as advance rental under this Lease, a sum equal to the amount by which the entire cost of the Trust Equipment exceeds the net proceeds of the sale of the aforesaid Trust Certificates and in no event less than twenty-four per cent. (24%) of the entire cost of the Trust Equipment. The Company agrees to pay such advance rental as follows:

(a) Promptly upon the execution of this Lease, if necessary, a sum which when added to the net proceeds of the sale of the Trust Certificates paid to the Trustee by the Vendor, will make the total sum deposited equal to Six Million Dollars ($6,000,000);

(b) From time to time upon delivery of any of the Trust Equipment to the Trustee, and part payment therefor by the Trustee out of "deposited cash" (as de-

fined in Section 4 of Article I of the Agreement), amounts equal to the remainder of the cost of such delivered equipment, being not less than twenty-four per cent. (24%) of such cost.

B. In addition to such advance rental the Company shall pay to the Trustee, from time to time as below provided, as rental for the Trust Equipment and replacements, and whether or not at the time any thereof shall have been delivered to the Company, the following:

(a) The necessary and reasonable expenses of the trust, including compensation, expenses and liabilities provided for in the Agreement and all expenses connected with the Trust Equipment and this Lease thereof; and expenses or obligations for any other amounts incurred or sustained in connection with any purchase or sale of United States Government securities including premium and accrued interest payable in connection with any such purchase; and, when and as demanded by the Trustee, any sums which under the provisions of Section 6 of Article I of said Agreement shall be required to make up any deficit resulting from the sale of United States Government securities for less than the amount of "deposited cash" or other cash applied to their purchase;

(b) Amounts sufficient to discharge any and all taxes, assessments and governmental charges assessed or levied upon or on account of the income or property of the trust, or the Agreement and this Lease evidencing the same, which the Trustee as such may be required to pay;

(c) A sum equal to the dividend warrants appurtenant to the Trust Certificates, when and as the same shall become payable, and, in the case of the issue of temporary Trust Certificates without dividend warrants, the dividends payable thereon at the rate of two and three eighths (2⅜) percent per annum; also, to the extent permitted by law, a sum equal to interest at the rate of four per cent. (4%) per annum, from the due date, upon the amount of any installments of rental payable under this subparagraph (c) and the following subparagraph (d) which shall not be paid when due; and

(d) The amount of the par value of the Trust Certificates outstanding, when and as the same shall become payable, whether upon the respective dates of maturity thereof or otherwise under the provisions thereof or of the Agreement, such respective dates of maturity being as follows: $400,000 on the 15th day of March in each year from March 15, 1950 to March 15, 1964, both inclusive.

Nothing herein or in the Trust Certificates or the Agreement contained shall be deemed to impose on the Trustee or on the Company any obligation to pay to the bearer or registered holder of any Trust Certificate or to the bearer of any dividend warrant any amount required by any law of the United States of America or of any State or subdivision thereof or of any Territory or of the District of Columbia to be withheld from the amount payable to the holder of any Trust Certificate or dividend warrant.

3. At the termination of this Lease and after all payments due or to become due from the Company hereunder and under the Agreement shall have been completed and fully made to the Trustee, such payments shall be then applied as purchase money and treated as the full purchase price of the Trust Equipment, and the title to all of the Trust Equipment and to all replacements thereof made hereunder shall vest in the Company, and thereupon the Trustee shall execute for recording or filing in public offices such instrument or instruments in writing as reasonably shall be requested by the Company in order then to make clear upon the public records the title of the Company to all of the Trust Equipment and replacements thereof, under the laws of any jurisdiction; *provided, however,* and it is hereby 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.

4. At or before the delivery to the Company of each unit of the Trust Equipment, there shall be permanently and conspicuously placed and fastened upon each side thereof a metal plate bearing the following words plainly and distinctly marked in letters not less than one inch in height:

Such plates 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 shall at any time be removed, defaced or destroyed, the Company shall immediately cause the same to be replaced.

The Company shall not change, or permit to be changed, the road numbers of any of the Trust Equipment at any time covered by this Lease (nor any road numbers which may be substituted as herein provided), except in accordance with a statement of new road numbers to be substituted therefor, which shall previously have been filed with the Trustee by the Company and consented to by the Trustee and, if necessary in the opinion of the Trustee, recorded or filed in each public office where this Lease or the Agreement or any supplement to either shall have been recorded or filed.

The Company will not allow the names of any persons, associations or corporations to be placed on any of the Trust Equipment as a designation which might be interpreted as a claim of ownership by the Company or anyone other than the Trustee; *provided, however,* that the Company may cause the said equipment to be lettered "NORTHERN PACIFIC", or in some other and substantially similar manner for convenience of identification of the leasehold interest of the Company therein.

5. The Company covenants and agrees to indemnify the Trustee against all claims arising out of or connected with the ownership or use of any of the Trust Equipment or replacements thereof, other than those resulting from its own negligence or wilful default, and particularly against any or all claims arising out of the use of any patented inventions in and about the Trust Equipment or replacements, 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 part thereof may be operated, and with all lawful acts, rules, regulations and orders of the Interstate Commerce Commission and of all other commissions or boards, and of all other legislative, executive or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including without limitation all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; *provided, however,* that the Company may in good faith contest the validity of any such law, act, rule, regulation or order or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which, in the judgment of the Trustee, will not materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates. The Company shall not be relieved from any of its obligations under this Lease by reason of the assertion or enforcement of any such claims or the commencement or prosecution of any litigation in respect thereof.

6. 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 worn out, or unsuitable, or not needed for the use of the Company, should be released and promptly sold and replaced, it is hereby mutually understood and agreed that at any time hereafter until title thereto shall become vested in the Company, the Trustee will sell any such

units of the Trust Equipment then subject to this Lease, upon the written request of the Company, signed by either its President, a Vice President, its Treasurer, or its Comptroller, accompanied by a certified copy of a resolution of its Board of Directors or Executive Committee authorizing such request, describing such units, and noting that they have become worn out, or unsuitable, or not needed for the use of the Company, stating the name of the proposed purchaser, the selling price thereof and specifying the original cost and fair value in good condition thereof. No such sale of any of the Trust Equipment shall be made for less than the fair value of the unit sold as in good condition at the time of sale, unless and until the Company shall have paid to the Trustee the difference between the price at which it is to be sold and such fair value as in good condition. The proceeds of all such sales shall be received by the Trustee in trust for the benefit of the holders of the Trust Certificates pending replacement of such trust equipment.

The Company, during the continuance of this Lease, shall maintain and keep all of the Trust Equipment hereby leased to it in good order and repair at its own proper cost and expense, and shall replace at its own cost any of said equipment that may be released, worn out, unsuitable for use, lost or destroyed, by new standard-gauge railroad equipment, other than work equipment, marked as provided in Paragraph 4 of this Lease, of substantially as good material and construction and of a value equal to the fair value, determined as hereinafter in this Paragraph 6 provided, of the equipment so released, worn out, unsuitable for use, lost or destroyed, the value of the new equipment to be deemed its cost, if that be below market value, or its market value if that be below cost, and shall cause the title to all such new equipment to be vested in the Trustee, free from any lien or charge; *provided, however*, that the Company may, in lieu of such replacement, or pending replacement of such Trust Equipment, deposit with the Trustee in cash and in trust for the benefit of the holders of the Trust Certificates, the then fair value, determined as hereinafter in this Paragraph 6 provided, of the Trust Equipment so released, worn out, unsuitable for use, lost or destroyed. Any cash so deposited with the Trustee shall at the request of the Company be invested in United States Government securities upon the terms and conditions provided in Section 6 of Article I of the Agreement. All such new equipment shall forthwith become subject to the terms and conditions of this Lease and of the Agreement as though it had been part of the original Trust Equipment, and the Trustee shall execute to the Company a supplemental lease thereof. At the time of every such replacement, the Company shall deliver to the Trustee a certificate, which the Trustee may accept as conclusive, of the President or a Vice President of the Company, stating the cost and reasonable market value of the new equipment used for such replacement and the fair value, determined as hereinafter in this Paragraph 6 provided, of the Trust Equipment so released, worn out, unsuitable for use, lost or destroyed, together with a bill or bills of sale, an opinion of counsel (who may be counsel of the Company) satisfactory to the Trustee, and a certificate as to delivery, all in like manner as is provided in Section 5 of Article I of the Agreement. The rights and remedies of the Trustee under this Lease and the right of the Trustee to recover any of the rental payments from the Company shall not be affected by reason of the leased equipment or any thereof becoming released or wholly or partly worn out, unsuitable for use, lost or destroyed.

For the purposes of this Paragraph 6, the fair value of any unit of the Trust Equipment shall be considered to be

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the original cost thereof less five per cent. (5%) of said original cost for each full year (but not pro rata for any part of a year) during which the unit was subject to this Lease prior to the date at which the fair value is so to be determined.

7. The Company will furnish to the Trustee, on or before the 31st day of March, 1950, and on or before the 31st day of March in every year thereafter during the continuance of this Lease, an accurate statement of inventory, signed by either its President, a Vice President, its Treasurer, or its Comptroller, as of the preceding 31st day of December, of the said equipment then in actual service, and the road numbers and description of such as may have become worn out, unsuitable for use, or lost or destroyed by accident or otherwise, and of such as may have been repaired, other than running repairs, during the previous year, and also the numbers of any then undergoing such repair and in the shops for such repair. Together with said statement the Company shall also furnish to the Trustee a statement similarly so signed, stating that in the case of all of the Trust Equipment repaired during the preceding year the plates required by Paragraph 4 of this Lease have been preserved thereon, or that the Trust Equipment when repaired has been again plated as required by said Paragraph. The Trustee may nevertheless, in its discretion, if it deems it necessary for the protection of the bearers and registered holders of the Trust Certificates, at any time and at the expense of the Company, make investigation of such of the aforesaid matters and inspection of such of the Trust Equipment as the Trustee may deem desirable, and the Company covenants in that event to furnish to the Trustee all reasonable facilities for the making of such investigation or inspection.

8. 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 its lines of railroad or over those which the Company at the time shall have 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 and the Agreement.

9. The Company covenants to file, register and record and to refile, reregister and rerecord this Lease and the Agreement and any supplemental leases or agreements provided for herein or in the Agreement, as provided in Section 4 of Article III of the Agreement.

10. The Company shall not 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. A transfer to a railroad company which shall acquire all or substantially all the lines of railroad of the Company and which shall assume and agree to perform each and all the obligations and covenants of the Company hereunder and under the Agreement and under the guaranty provided for in the Agreement shall not be deemed a breach of this covenant, but the appointment of a receiver or receivers or trustee or trustees in bankruptcy for the Company, or its property, or the filing of a petition, whether voluntary or involuntary, under the Federal Bankruptcy Act shall be deemed an unauthorized assignment by

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the Company of its rights and interest in the Trust Equipment and shall be deemed a breach of this covenant, unless any such receiver or receivers or trustee or trustees shall have been discharged within thirty (30) days after his or their appointment, or within a like period shall have assumed and agreed to perform each and all of the obligations and covenants hereunder and under the Agreement, in either case pursuant to due order or authority of the court by which he or they shall have been appointed, or any such petition shall have been withdrawn and proceedings thereon terminated within a like period. The Trustee hereunder shall have the right to declare this Lease terminated in case of any unauthorized assignment or transfer of this Lease or unauthorized 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.

11. In case the Company

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

(b) shall make or suffer any unauthorized assignment or transfer of its rights or interests in the Trust Equipment or any unauthorized sublease of, or, except as

within thirty (30) days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said thirty (30) 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 and not so recovered (any sum so deposited to be returned to the Company upon the cancellation of such assignment, transfer or sublease and the recovery of possession by the Company of such Trust Equipment), or

(c) 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 the 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 the Agreement sometimes called "events of default"), the Trustee, subject to the provisions of Section 2 of Article IV of the Agreement with respect to the authority of the holders of a majority in par value of the Trust Certificates to direct and control the action of the Trustee, at its option, may, and upon the written request of the holders of not less than twenty-five per cent. (25%) in aggregate par value of the Trust Certificates then outstanding and

Agreement, all arrears of rentals with interest as hereinabove provided and the compensation, expenses and liabilities of the Trustee and all other sums which shall have become due and payable by the Company under this Lease or under the Agreement (other than the par value 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 Lease or the Agreement 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 may, and if so requested by the bearers or registered holders of a majority in aggregate par value 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 Trust Certificates shall have been declared and become due and payable and waive the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

19. 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 of the Trust Equipment, on the part of the Trustee or on the part of any bearer or registered holder of any Trust Certificate or the bearer of any 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 Lease or under the Agreement or under its guaranty.

20. This Lease is executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

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

IN WITNESS WHEREOF, the Trustee, 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 March 15, 1949.

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,
As Trustee,

By .....
Vice President.

(SEAL)

Attest:

.....
Assistant Cashier.

NORTHERN PACIFIC RAILWAY COMPANY,

By ..... Vice President.

(SEAL)

Attest:

..... Assistant Secretary.

Signed, sealed and delivered by THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK and NORTHERN PACIFIC RAILWAY COMPANY, in the presence of:

..... F. CONNOLLY

..... N. L. WALTER

As Witnesses to all Signatures.

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

I, EDNA VEITH, 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 March A. D. 1949, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument bearing date as of March 15, 1949, R. G. FULLER and C. M. Davis each to me personally known and known to me to be respectively a Vice President and an Assistant Cashier of The First National Bank of the City of New York, one of the corporations described in and which executed the within and foregoing instrument in writing, 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 to be duly authorized to make this acknowledgment as hereinafter stated, and the said R. G. FULLER and C. M. Davis 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. G. FULLER resides at 6 Olmsted Road Scarsdale, N. Y. and that the said C. M. Davis resides at 1 Woodington Road Morristown, N. J. that said R. G. FULLER is a Vice President and said C. M. Davis is an Assistant Cashier of The First

National Bank of the City of New York, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said R. G. FULLER and C. M. Davis know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the by-laws of such corporation and by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instruments in their respective capacities as Vice President and Assistant Cashier in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation, and that such corporation executed the same

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such notary public, in the said County of New York, State of New York, this the day and year in this my certificate first above written.

..... Notary Public

EDNA VEITH
Notary Public in the State of New York
Residing in New York County
New York County Clerk's No. 57
Commission Expires March 30, 1949

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

I, EDNA VEITH, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 14th day of March A. D. 1949, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument bearing date as of March 15, 1949, J. H. Poore and F. G. Hollender; each to me personally known and known to be respectively a Vice President and an Assistant Secretary of Northern Pacific Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and to be duly authorized to make this acknowledgment as hereinafter stated, and the said J. H. Poore and F. G. Hollender, 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 at No. 1495 Goodrich Avenue, St. Paul, Minnesota, and that the said F. G. Hollender resides at 9206 89th Avenue, Woodhaven, 21, New York; and said J. H. Poore is a Vice President and said F. G. Hollender is an Assistant Secretary of Northern Pacific Railway Company, one of the corpora-

tions described in and which executed the within and foregoing instrument in writing; that they, the said J. H. Poore and F. G. Hollender, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the by-laws of such corporation and by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and 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.

Edna Veith

Notary Public

EDNA VEITH
Notary Public in the State of New York
Residing in New York County
New York County Clerk's No. 57
Commission Expires March 30, 1949

State of Wisconsin } ss.
DEPARTMENT OF STATE

Received this 24th day of MARCH A. D. 1949 at 12:00 o'clock A.M. and recorded in Vol. 42 of RAILROAD MORTGAGES on pages 239-277 incl.

Assistant Secretary of State

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Executed in 22
Counterparts
Counterpart No 4

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

Lease of Railroad Equipment

DATED AS OF APRIL 1, 1949

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

TO

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

Agreement

DATED AS OF APRIL 1, 1949

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 RAILROAD EQUIPMENT REPORTER PUBLISHING, 332 SOUTH MICHIGAN AVENUE, CHICAGO

LEASE OF RAILROAD EQUIPMENT, dated as of April 1, 1949, 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 a certain agreement, dated as of April 1, 1949, 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 (hereinafter called the Agreement), 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 HH," 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 the 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 the 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-

(Feb 23, 58)

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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 HH, (which together with the additional and substituted equipment and replacements as herein and in the Agreement provided are hereinafter and in the Agreement collectively called the Trust Equipment), to wit:

PASSENGER-TRAIN CARS.

2,022 40′6″, 50-ton, all steel, box cars, Nos. 26538 to 28559, 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 estimated total cost of the railroad equipment specifically described in the last foregoing paragraph hereof is hereby certified to the Trustee to be not less than $8,080,000. Simultaneously with the execution of this Lease the Railroad Company shall certify to the Trustee the estimated total cost of each unit of the railroad equipment so specifically described.

In the event that the Vendors shall, as provided in Section 5 of Article I of the Agreement, acquire other new, standard range 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 the

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 the 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 the 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) Upon the delivery by the Trustee of any of the Trust Certificates in the Agreement defined, in accordance with the provisions of Section 2 of Article I of the Agreement, such amount, if any, whereby seventy-five per cent (75%) of the aggregate estimated cost of the Trust Equipment, as certified to the Trustee by the Railroad Company as in this Lease prescribed, exceeds the principal amount of said Trust Certificates.

(b) From time to time at or before the delivery of any of the Trust Equipment to the Railroad Company, as advance rentals, amounts in cash equal to the difference between the cost of the Trust Equipment so delivered as certified to the Trustee and the amount of Deposited Cash payable in respect thereof pursuant to Section 3 of Article I of the Agreement; provided, however, that the aggregate of all amounts so paid to the Trustee shall never be less than 25% 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 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 the 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 the 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 thereon.

(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, to the extent that the same may

be legally enforceable, 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 plus any interest paid to the Trustee on such securities is less than the purchase price thereof including any accrued interest.

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 purpose of this Lease and the 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 subparagraph (b) of Section 4 of Article I of the Agreement. In case any certificate furnished pursuant to said subparagraph (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 HH, 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 the Agreement, depreciation on the Trust Equipment, or any thereof, shall not exceed an amount equal to ½ 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, 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 the Agreement; provided, however, that such rolling stock shall not be work equipment, except in substitution for or replacement of work equipment, if any, hereinbefore listed and described. 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 the 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 HH, 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; provided, however, that such rolling stock shall not be work equipment, except in replacement of work equipment, if any, hereinbefore listed and described.

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, 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 the Agreement.

Thereupon, such new equipment shall be deemed a part of the Trust Equipment, subject to all the terms and conditions hereof and of the 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 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 the 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 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.

be duly filed, registered or recorded and duly refiled, reregistered and rerecorded as required by the provisions of Section 3 of Article IV of the Agreement, 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 the publication and protection of the title of the Trustee to the Trust Equipment.

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 the Agreement on its part to be performed, including, without limiting the generality of the foregoing, all recording and registration taxes and fees, and all expenses incident to the preparation, execution, acknowledgment, filing, refiling, registering, reregistering, recording and rerecording of this Lease and the Agreement and of any instrument of further assurance, and all stamp taxes and other taxes, duties, imposts, assessments, charges, fines and penalties of any kind imposed upon this Lease, the Agreement or 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 the 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:

V. P. NELSON, *Assistant Secretary.*

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

W. H. CONLEY

E. L. FRIEDRICH

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:

M. E. SHARP

RUTH E. HALL

Attesting Witnesses.

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

I, ESTELLE B. SPAETH, 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 13th day of April, 1949, 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 MAY 3, 1951

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

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

I, R. W. SPANGENBERG, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, DO HEREBY CERTIFY that on this 12th day of April, 1949, 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.

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THIS AGREEMENT, dated as of April 1, 1949, 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 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 (herein called the Lease), to which Lease reference is hereby made; and

WHEREAS, subscriptions have been or are being secured, in an amount not exceeding $6,060,000 to a fund to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series HH, 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 thirty semiannual installments of $202,000 each, payable respectively on April 1st and October 1st, in each year, beginning on October 1, 1949, and ending on April 1, 1964, 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 the Lease a valid, binding and legal agreement and lease, respectively, have been done and performed;

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

ARTICLE 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 the 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

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with the execution of this Agreement, have executed and delivered the Lease.

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 the Lease or of 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 HH, 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, the instalment of rent, if any, then payable pursuant to subparagraph (a) of Article First of the Lease 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 credited by the Trustee against the next instalment of rent payable pursuant to subparagraph (e) of Article First of the Lease.

SECTION 3. The term "Deposited Cash," whenever used herein, shall mean 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 (excluding any accrued dividends paid upon the original issue of Trust Certificates), plus any interest allowed or earned thereon and any amounts added thereto pursuant to Section 6 of this

Article I. 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. Whenever from time to time any of the Trust Equipment shall 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 which, together with all payments previously made out of Deposited Cash, shall equal seventy-five per cent of the aggregate estimated cost, as certified pursuant to the provisions of the Lease, of the Trust Equipment then and theretofore so transferred and delivered to the Trustee, or seventy-five per cent of the aggregate cost of the Trust Equipment then and theretofore so transferred and delivered to the Trustee, as certified to the Trustee pursuant to Section 4 of this Article I, whichever is less. The Trustee shall make payment of the remainder of such certified cost out of the instalment of rental payable on such delivery pursuant to subparagraph (b) of Article First of the Lease.

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 Trustee, or to the Vendors, and, if to the latter, from the Vendors 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, and 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 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 duly subordinated as to such Trust Equipment to secure or confirm the prior right, charge, lien or title of the Trustee 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 April 1, 1950.

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 and 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, if any, 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 for any thereof in accordance with the provisions of the foregoing paragraph, acquired by the Trustee hereunder, shall not amount to at least

$8,080,000, then the Vendors shall cause to be built or acquired and 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 $8,080,000.

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 re-

quest, 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, plus any interest paid to the Trustee on such securities, is less than the purchase price thereof, including any accrued interest, 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 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 $6,060,000 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 the Lease otherwise provided for, shall be credited against the next installment of rental payable under subparagraph (f) of Article First of the 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 2⅜ per cent per annum from April 1, 1949, payable semiannually on the first day of April and October in each year. $202,000 principal amount of the Trust Certificates shall become due and payable on April 1 and October 1 in each year beginning on October 1, 1949, and ending on April 1, 1964. 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 6,060, 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 HH.

Total Issue not to exceed $6,060,000.

Dividends at the rate of 2⅜ 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, 1949 (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 HH, payable on _____ 1, 19____, unless prior payment hereof be required as hereinafter provided, and to dividends thereon at the rate of two and three-eighths per cent (2⅜%) per annum from April 1, 1949, 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, 1949.

This certificate is one of an issue of certificates, in bearer form, in an aggregate principal amount not exceeding $6,060,000, 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 contrary for all purposes as would the delivery

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 or a facsimile thereof to be printed hereon 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, 1949.

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-

2½ per cent per annum from April 1, 1949, 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, so far as legally enforceable, 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 the Lease or of any instruments executed under the provisions hereof or of the 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 the Lease and any supplemental leases and agreements which may be executed under the terms of this Agreement, or of the Lease, to be duly filed and refiled or recorded and rerecorded as may be required by law, 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 required by law, so that this Agreement and the 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 the 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

Certificates, and to exercise one or more of the powers of entry, sale or lease in the Lease conferred, or to take appropriate judicial proceedings by action, suit or otherwise, as the Trustee being advised by counsel shall deem most expedient in the 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 the Lease and this Agreement and the sale or lease of the Trust Equipment and 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, to the extent legally enforceable, 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, 1964, all arrears of rental (with interest upon any overdue instalment at the same rate per annum as provided in the dividend warrants), the expenses and reasonable compensation of the Trustee and all other sums which shall have become due and payable by the Railroad Company hereunder or under the 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 the 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 the 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

Trust Certificates shall have been declared and have become due and payable, as hereinbefore provided, but before April 1, 1964, all arrears of rental (with interest upon any overdue instalment at the same rate per annum as provided in the dividend warrants), the expenses and reasonable compensation of the Trustee and all other sums which shall have become due and payable by the Railroad Company hereunder or under the 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 the 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 the 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

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 the 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 the 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

the Railroad Company under this Agreement or under the 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 the Lease.

SECTION 2. The Trustee covenants and agrees to apply and distribute the rentals received by it under subparagraphs (c), (d), (e), (f) and (g) of Article First of the 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 the 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 the 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 the 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 the 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 the 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 the 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 any-

thing 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.

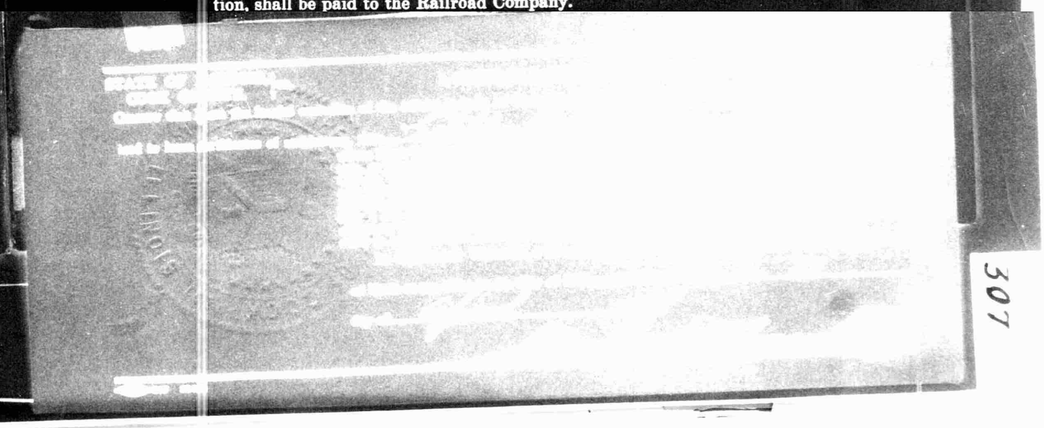
ARTICLE VIII.

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

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 the 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.



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

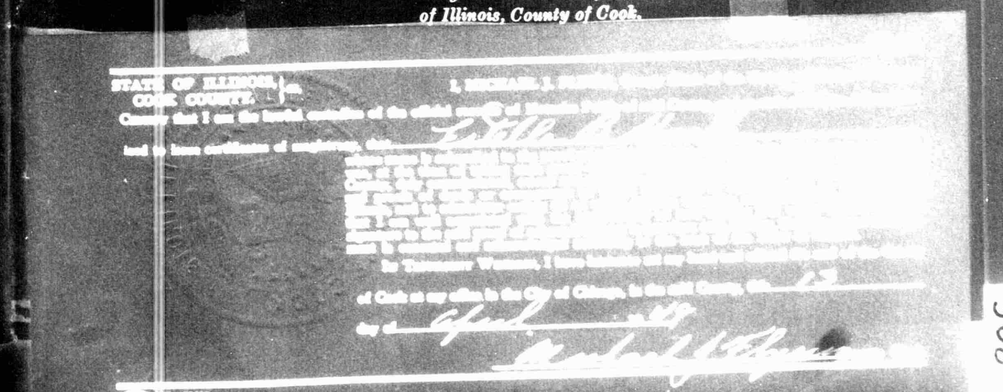
I, ESTELLE B. SPAETH, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements, and hereditaments in said County, DO HEREBY CERTIFY that on the 13th day of April, 1949, 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 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 MAY 3 – 1951

Estelle B. Spaeth
ESTELLE B. SPAETH
Notary Public in and for the State of Illinois, County of Cook.



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

I, R. W. SPANGENBERG, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, DO HEREBY CERTIFY that on the 12th day of April, 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, for the State of Illinois, County of Cook.

STATE OF WISCONSIN } ss.
Department of State }

Received this 16th day of April, A.D., 1949, at 10:00 o'clock A.M., and recorded in Vol. 46 of Railroad Mortgages, page 308, Dkt.

Marc Thurmann
Assistant Secretary of State

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COUNTERPART 6

NORTHERN PACIFIC RAILWAY

EQUIPMENT TRUST OF 1949, SECOND SERIES

AGREEMENT

Dated as of June 15, 1949

NORTHWESTERN IMPROVEMENT COMPANY
VENDOR,

FIRST TRUST COMPANY
OF SAINT PAUL
TRUSTEE,

AND

NORTHERN PACIFIC RAILWAY COMPANY

LEASE

Dated as of June 15, 1949

FIRST TRUST COMPANY
OF SAINT PAUL
TRUSTEE,

TO

NORTHERN PACIFIC RAILWAY COMPANY

For Issue of $6,450,000 Equipment Trust Certificates

Review Publishing Co., 161 E. Fifth St., St. Paul, Minn. Order 1949

THIS AGREEMENT, dated as of June 15, 1949, by and among NORTHWESTERN IMPROVEMENT COMPANY, a corporation duly organized and existing under the laws of the State of Delaware, of the City of St. Paul, State of Minnesota (hereinafter called the "Vendor"), of the first part,

FIRST TRUST COMPANY OF SAINT PAUL, a corporation duly organized and existing under the laws of the State of Minnesota (hereinafter called the "Trustee"), of the second part, and

NORTHERN PACIFIC RAILWAY COMPANY, a corporation duly organized and existing under the laws of the State of Wisconsin (hereinafter called the "Company"), of the third part;

WITNESSETH:

THAT WHEREAS, the Company desires to obtain additional equipment in order that traffic over its lines may be properly transported, and it has been deemed expedient to make provision therefor through the medium of an equipment trust; and

WHEREAS, the Vendor has contracted to acquire, or will acquire or contract to acquire, the equipment specifically described in the Lease from the Trustee to the Company, annexed to this Agreement, hereinafter referred to as the "Lease", which equipment, together with the additional and substituted equipment provided for in this Agreement and in said Lease, is hereinafter called the "Trust Equipment"; and

WHEREAS, the title to said Trust Equipment is to be vested in the Trustee and is to be retained by the Trustee until

transferred under the provisions of this Agreement and said Lease; and

WHEREAS, subscriptions have been secured to the amount of Six Million Four Hundred Fifty Thousand Dollars ($6,450,000), aggregate par value of the Trust Certificates hereinafter mentioned, the net proceeds of such subscriptions, together with the cash, if any, necessary to be deposited by the Company, as hereinafter provided in Article I, Section 2, of this Agreement, constituting a fund of not less than Six Million Four Hundred Fifty Thousand Dollars ($6,450,000), to be known as "NORTHERN PACIFIC RAILWAY EQUIPMENT TRUST OF 1949, SECOND SERIES", which said fund, is to be furnished to the Vendor to be applied by it in part payment of the cost of said Trust Equipment; the remainder of such cost to be discharged out of advance rentals to be paid by the Company under the terms of this Agreement and said Lease; and

WHEREAS, the Vendor desires to secure to the parties subscribing to said fund or their assigns the repayment of the par value thereof in fifteen equal annual installments of Four Hundred Thirty Thousand Dollars ($430,000), payable serially on the fifteenth day of June in each year commencing with June 15, 1950, and ending with June 15, 1964, as hereinafter more particularly provided, with dividends at the rate of two and three-eighths (2⅜%) per cent. per annum, from June 15, 1949, payable semi-annually on the fifteenth day of June and December in each year, commencing December 15, 1949, 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 of the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE I.

SECTION 1. The Vendor, as speedily as practicable, will acquire the Trust Equipment specifically described in the Lease, to which reference is hereby made, and will sell, assign, transfer and set over said Trust Equipment, or cause it to be assigned, transferred and set over, unto the Trustee, as trustee for the holders of the Trust Certificates hereinafter described, when and as the Trust Equipment or any part thereof is acquired.

If, as a result of strikes, material shortages, or other causes beyond its control, the Vendor is unable to acquire any unit or units of the Trust Equipment specifically described in the Lease, the Vendor may acquire in place of such unit or units of equipment it is so unable to acquire, and substitute therefor under the Trust as and when acquired, 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 Company. The total cost of said substituted equipment shall be not less than the estimated cost of the equipment in place of which it was acquired as set forth in the Lease. Such substituted equipment shall be subjected to the Lease by supplemental lease, and shall be deemed a part of the Trust Equipment for all purposes, including the payment of "deposited cash" in respect of the cost thereof, and the equipment in place of which such substituted equipment is acquired shall be eliminated from the Trust Equipment.

The Vendor will deliver or cause to be delivered the Trust Equipment, f.o.b. tracks of the Company at points to be specified from time to time by the Company, to the person or persons designated by the Trustee as its agent or agents to re-

ceive such delivery, who may be any one or more of the officers or agents of the Company, and the certificate of any agent so designated shall be conclusive evidence of such delivery.

The Vendor shall incur no liability hereunder, or under any bill of sale executed by it as herein provided, or for anything other than its own wilful default, misconduct or negligence. The Vendor shall be entitled to the advice of counsel (who may be counsel of the Company) and shall be protected by the advice of such counsel in anything done or omitted to be done by it in accordance with such advice.

The Trustee and the Company, simultaneously with the execution of this Agreement, have executed and delivered the Lease of the Trust Equipment in the form annexed hereto, and the Trustee, pursuant to the terms of the Lease, shall deliver or cause to be delivered to the Company the Trust Equipment when received by the Trustee.

SECTION 2. Upon the execution of this Agreement, the Vendor shall deposit or cause to be deposited with the Trustee, in cash, the net proceeds of the sale of the Trust Certificates issuable as hereinafter provided, and at the same time the Company shall deposit with the Trustee, in discharge *pro tanto* of advance rental payable by the Company to the Trustee under the Lease, such additional amount in cash as may be necessary, if any, to make the total sum deposited equal to Six Million Four Hundred Fifty Thousand Dollars ($6,450,000). Thereupon without waiting for the recording, registration or filing of this Agreement or of the Lease or any other instrument respecting the Trust Equipment, the Trustee shall issue and deliver to or upon the written order of the Vendor, Trust Certificates, to be designated "Northern Pacific Railway Equipment Trust of 1949, Serial Equip-

ment Trust Certificates, Second Series", substantially in the form set forth in Article II of this Agreement of the aggregate par value of Six Million Four Hundred Fifty Thousand Dollars ($6,450,000). For the purpose of this Agreement and the Lease, the terms "net proceeds" and "deposited cash" shall not be construed to include any premium or accrued dividends collected or received upon the sale of the Trust Certificates, but the amount of any such premium and such accrued dividends shall, nevertheless, be deposited with the Trustee and shall be applied by it on account of the first and next succeeding installments of rental payable under subparagraph (c) of subsection B of Paragraph 2 of the Lease.

SECTION 3. Any money at any time paid to or held by the Trustee hereunder or under the Lease shall be held by the Trustee in trust for the benefit of holders of the Trust Certificates, until paid out by the Trustee as herein or therein provided, and may be carried by the Trustee as deposit with itself, without liability for interest thereon.

SECTION 4. From time to time, when and as any of the Trust Equipment shall be delivered to the Trustee, the Trustee shall, subject to the provisions of Section 5 of this Article, pay to the Vendor, or upon its written order, out of and to the extent of the "deposited cash", an amount not exceeding (a) seventy-nine per cent. (79%) of the estimated cost as set forth in the Lease (or, as to any substituted or additional equipment, as set forth in any supplemental lease)

of the Trust Equipment so delivered, or (b) seventy-nine per cent. (79%) of the cost thereof as specified in the certificate or certificates delivered pursuant to Section 5 (d) of this Article if such cost be less than such estimated cost.

The term "deposited cash" when used in this Agreement shall mean only the cash deposited with the Trustee as in Section 2 of this Article provided and, when required or indicated by the context, any cash deposited by the Company in lieu of, or pending replacement of equipment under Section 6 of the Lease, and bonds or other obligations of the United States of America purchased by the use of such cash pursuant to the provisions of the first paragraph of Section 6 of this Article, or the proceeds of the sale of such bonds or other obligations together with any deficit deposit provided for in the first and second paragraphs of said Section 6 of this Article.

The Company covenants that, contemporaneously with each such payment by the Trustee, the Company will pay to the Trustee, as advance rental provided in the Lease, amounts equal to the remainder of the cost of the equipment delivered, being not less than twenty-one per cent. (21%) of the said cost. Thereupon the Trustee shall pay to the Vendor or upon its written order, by the use of such advance rental, the portion of the cost of the delivered Trust Equipment not discharged by the payment above described out of the "deposited cash".

SECTION 5. 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 Equip-

ment, stating that Trust Equipment, described and specified therein by road number or numbers, has been delivered to such agent or agents and by such agent or agents delivered to the Company, and marked in accordance with the provisions of Paragraph 4 of the Lease.

(b) A bill or bills of sale to the Trustee of such Trust Equipment from (a) the manufacturer or owner thereof or (b) the Vendor; such bill or bills of sale to contain or be accompanied by a warranty or guaranty to the Trustee that the title to the Trust Equipment described therein is free from all liens and encumbrances.

(c) An opinion of counsel (who may be counsel for the Company) satisfactory to the Trustee, that the Trustee's title to the Trust Equipment described therein is free from all liens and encumbrances.

(d) A certificate or certificates as to the cost of such Trust Equipment, signed by the Vendor and by the President or any Vice President of the Company, which certificates shall state that the cost of such Trust Equipment is an amount therein specified; that such Trust Equipment is new standard-gauge railroad equipment, constructed of unused material; that it is of a character called for by this Agreement and the Lease, or is substituted equipment the acquisition of which is authorized by the second paragraph of Section 1 of this Article; and that it has been approved, received and accepted by the Company in accord with this Agreement and the Lease.

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The cost of the Trust Equipment whenever referred to herein or in the Lease shall mean the actual cost thereof, including only such items as may properly be included in such cost under the accounting rules of the Interstate Commerce Commission. Any certificate as to cost may state that the cost of the Trust Equipment therein referred to is tentatively determined, subject to final adjustment as evidenced by final certificate or certificates of cost to be delivered to the Trustee within such time as the Trustee in its discretion in each instance may allow. The cost of the Trust Equipment shall be conclusively established by such certificate, and the Trustee shall proceed on the basis of a tentative-certificate pending final determination by final certificate or by such final certificate if a final certificate be required.

If the aggregate final cost of all the Trust Equipment acquired by the Vendor as specifically described in the Lease or in substitution therefor pursuant to the provisions of paragraph two of Section 1 of this Article should be less than the estimated cost of Eight Million One Hundred Seventy-six Thousand Dollars ($8,176,000), the Vendor shall acquire and transfer, or cause to be acquired and transferred, to the Trustee, subject to all the terms of this Agreement, other new standard-gauge railroad equipment, other than work equipment, of such classes or types as may be approved by the Company, of substantially as good material and construction as the equipment specifically provided for in said Lease, and of such cost that the aggregate final cost of all the Trust Equipment acquired shall equal at least said estimated cost of Eight Million One Hundred Seventy-six Thousand Dollars ($8,176,000), of which aggregate final cost not more than seventy-nine per cent. (79%) shall be paid from "deposited cash", to the extent thereof and not less than twenty-one per cent. (21%) by the Company as provided in Section 4 of this Article.

SECTION 6. The Trustee, upon instructions from the Company, shall, at any time prior to the vesting of title to the Trust Equipment in the Trustee, invest the "deposited cash" applicable to the acquisition of such Trust Equipment in such bonds or other obligations of the United States of America having maturities not later than June 15, 1964, hereinafter sometimes called "United States Government securities", as the Company shall designate. If, pursuant to the provisions of Paragraph 6 of the Lease, the Company is required to and pays over cash to the Trustee, the Trustee, upon written instructions from the Company, signed by the President or any Vice President, shall invest such cash in such United States Government securities. The Trustee shall collect the interest on any securities in which any part of the moneys may be invested from time to time and so long as the Company shall not be known to the Trustee to be in default under this Agreement or under the Lease, the Trustee shall pay over such interest as and when collected by it to or upon the written order of the Company without restriction or limitation upon its use; *provided*, that if at any time the market price of any such securities shall be less than the price at which they were purchased the Trustee shall out of the interest collected by it retain an amount sufficient to cover the deficit so long as such deficit shall exist.

At any time and from time to time the Trustee shall, upon written instructions from the Company, signed by the President or any Vice President, sell all or part of the United States Government securities that may have been purchased in accordance with the foregoing provisions; *provided*, that if the proceeds of the sale of such United States Government securities, plus any interest thereon withheld under the provisions of the next preceding paragraph, shall be less than

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the amount of the "deposited cash" or cash held under Paragraph 6 of the Lease applied to the purchase thereof, the Trustee shall restore to "deposited cash" or such other cash from rentals received by it under subparagraph (a) of subsection B of Paragraph 2 of the Lease, such amount or amounts as will be sufficient to make up the deficit. The Trustee shall hold the proceeds of any sale of United States Government securities purchased from "deposited cash" or deficit deposit with respect to such securities under this paragraph as "deposited cash", and apply the same as provided in Section 4 of this Article. The Trustee shall hold the proceeds of any sale of United States Government securities purchased with cash deposited pursuant to Paragraph 6 of the Lease or any deficit deposit with respect to such securities for the purposes set forth in said Paragraph 6.

The Trustee shall be reimbursed, out of rent received by it under the provisions of subparagraph (a) of subsection B of Paragraph 2 of the Lease, for or on account of any premium or accrued interest required to be paid in the event of any such investment in United States Government securities, and for or on account of any expenses incurred in the event of any purchase or sale of such United States Government securities. The Company if not in default under the terms of the Lease or of this Agreement, or of any supplemental lease or supplemental agreement, shall be entitled to receive any amount realized from any sale by the Trustee of such United States Government securities in excess of the "deposited cash" or cash from Paragraph 6 of the Lease, applied to the purchase thereof.

SECTION 7. Any "deposited cash" remaining in the hands of the Trustee after the delivery of all of the original Trust

Equipment (meaning all the equipment specifically described in the Lease plus any additional equipment acquired pursuant to the last paragraph of Section 5 of this Article to make up any deficiency) and payment therefor in the manner provided in this Agreement shall be applied by the Trustee to payment of the par value of the next maturing Trust Certificates then outstanding, when and as the same shall become payable, and, to the extent that such payments are so made by the Trustee out of the balance of the "deposited cash" in its hands, the said next maturing installment of rental payable pursuant to subparagraph (d) of subsection B of Paragraph 2 of the Lease shall be correspondingly reduced.

SECTION 8. Anything in this Agreement contained to the contrary notwithstanding, the aggregate par value of the Trust Certificates which shall be executed and delivered by the Trustee under this Agreement shall not exceed Six MillionFour Hundred Fifty Thousand Dollars ($6,450,000), except as provided in Section 6 of Article II hereof in respect of replacement of Trust Certificates mutilated, defaced, lost, destroyed or stolen.

ARTICLE II.

SECTION 1. Each of the Trust Certificates in definitive form shall represent an interest of the par value of One Thousand Dollars ($1,000) in the trust hereby created, and the bearer or registered holder of each Trust Certificate shall be entitled to receive dividends on said par value at the rate of two and three-eighths (2⅜%) per cent. per annum, from June 15, 1949, payable semi-annually on the 15th day of June and December in each year commencing December 15, 1949. The par value of the Trust Certificates shall become due and payable as follows:

Nos.	1	to	430,	both	inclusive,	on	the	15th	day of June	1950..$430,000
"	431	to	860,	"	"	"	"	"	"	1951.. 430,000
"	861	to	1290,	"	"	"	"	"	"	1952.. 430,000
"	1291	to	1720,	"	"	"	"	"	"	1953.. 430,000
"	1721	to	2150,	"	"	"	"	"	"	1954.. 430,000
"	2151	to	2580,	"	"	"	"	"	"	1955.. 430,000
"	2581	to	3010,	"	"	"	"	"	"	1956.. 430,000
"	3011	to	3440,	"	"	"	"	"	"	1957.. 430,000
"	3441	to	3870,	"	"	"	"	"	"	1958.. 430,000
"	3871	to	4300,	"	"	"	"	"	"	1959.. 430,000
"	4301	to	4730,	"	"	"	"	"	"	1960.. 430,000
"	4731	to	5160,	"	"	"	"	"	"	1961.. 430,000
"	5161	to	5590,	"	"	"	"	"	"	1962.. 430,000
"	5591	to	6020,	"	"	"	"	"	"	1963.. 430,000
"	6021	to	6450,	"	"	"	"	"	"	1964.. 430,000
	Total									$6,450,000

The due date and dividend rate shall appear upon the face of each Trust Certificate. Trust Certificates shall be numbered from 1 consecutively upward to 6450, 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.

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

[FORM OF TRUST CERTIFICATE]

$1,000 No. .....

NORTHERN PACIFIC RAILWAY

EQUIPMENT TRUST OF 1949, SECOND SERIES

SERIAL EQUIPMENT TRUST CERTIFICATES

Total Issue $6,450,000

DIVIDENDS AT THE RATE OF TWO AND THREE-EIGHTHS (2⅜%) PER CENT.

PER ANNUM, PAYABLE JUNE 15 AND DECEMBER 15

FIRST TRUST COMPANY OF SAINT PAUL, TRUSTEE.

Par Value payable June 15, 19 ....

FIRST TRUST COMPANY OF SAINT PAUL, Trustee under an Agreement dated as of June 15, 1949, by and among NORTHWESTERN IMPROVEMENT COMPANY, of the first part, FIRST TRUST COMPANY OF SAINT PAUL, of the second part, and NORTHERN PACIFIC RAILWAY COMPANY, of the third part, hereby certifies that the bearer, or, if this Certificate be registered as to par value, the registered holder hereof, is entitled to an interest of the par value of One Thousand Dollars ($1,000) in Northern Pacific Railway Equipment Trust of 1949, Second Series, and, as hereinafter more fully provided, is entitled to the payment of said par value on June 15, 19.., upon surrender of this certificate to the undersigned at its office in the City of St. Paul, State of Minnesota, or at the option of the bearer, or registered holder hereof, as the case may be, at the office of J. P. Morgan & Co. Incorporated, in the Borough of Manhattan, City and State of New York, and to payment, until said last mentioned date, of dividends on said par value at the rate of two and three-eighths (2⅜%) per cent. per annum, from June

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[FORM OF TAX LEGEND]

All United States taxes payable in respect of the issue of this certificate have been paid and the required stamps have been affixed to an original counterpart of the within mentioned agreement in the possession of the Trustee and duly cancelled.

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 facsimile 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 may be as effective and binding and shall 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 thereto attached shall be authenticated by the facsimile signature of the present or any future Secretary or Assistant Secretary of the Trustee; any such facsimile signature shall be effective and binding notwithstanding the fact that such Secretary or Assistant Secretary shall have ceased to be such officer at the time when any such Trust Certificate shall be issued and delivered as herein provided. Before executing or delivering any Trust Certificates, all matured dividend warrants thereto appertaining shall be detached and cancelled by the Trustee.

SECTION 4. Temporary printed Trust Certificates without dividend warrants, or with one or more dividend warrants, and with or without provisions for registration, in

such form and denominations as the Trustee may determine, may be issued by the Trustee, upon which shall be endorsed the guaranty of the Company in the form aforesaid with such changes as may be appropriate, and these temporary Trust Certificates shall be exchangeable, without cost to the holder, upon surrender for definitive Trust Certificates of like maturity dates, having endorsed thereon the guaranty of the Company in the form aforesaid, when the same shall have been prepared. Each of such temporary Trust Certificates shall designate the date of maturity of the definitive Trust Certificate or Certificates for which it is exchangeable, and until such exchange such temporary Trust Certificates shall be subject to the provisions and entitled to the same benefits of this Agreement in all respects as such definitive Trust Certificates, including the payment of dividends and the guaranty by the Company.

SECTION 5. The Trust Certificates shall be negotiable and shall pass by delivery unless registered as to par value in the manner in this Agreement provided. Any of the Trust Certificates may be registered as to par value thereof in the name of the holder on the books of the Trustee to be kept at its office in the City of St. Paul, State of Minnesota, and such registration shall be noted on the Trust Certificate by the Trustee. Thereafter no transfer thereof shall be valid unless made at said office by the registered holder thereof in person, or by his duly authorized attorney, and similarly noted thereon; but the same may be discharged from registration and transferred to bearer as before. Such registration, however, shall not affect the dividend warrants appertaining to the Trust Certificates so registered, but every such dividend warrant shall continue to be transferable with the same effect as in the case of a negotiable instrument pay-

able to bearer, by delivery thereof by any person in possession of the same, however such possession may have been acquired.

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 holder 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 shall require the payment by the holder of a sum sufficient to reimburse it for any tax, stamp tax or other governmental charge connected therewith.

SECTION 6. In case any Trust Certificate or the dividend warrants appertaining thereto shall become mutilated or defaced or be lost, destroyed or stolen, then on the terms herein set forth, and not otherwise, the Trustee shall upon the written request of the Company execute and deliver a new Trust Certificate, and the Company at the request of the Trustee shall execute its guaranty thereon, with all unmatured dividend warrants appertaining thereto, of like maturity, dividend rate, 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 including dividend warrants, if any, or in lieu of or in substitution for the same if lost, destroyed or stolen, and the Trus-

tee shall make payment of any matured and unpaid dividend warrants appertaining to the same. The applicant for a new Trust Certificate, including dividend warrants, if any, shall furnish to the Trustee and to the Company evidence to their satisfaction of the loss, destruction or theft of such Trust Certificate or dividend 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 or dividend warrants, and also such security and indemnity as may be required by the Trustee and by the Company in their discretion; and shall pay all expenses and charges of such substitution or exchange. All Trust Certificates and dividend warrants 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 or dividend 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, including counsel fees, and of reasonable compensation of the Trustee, including all thereof incurred in connection with the enforcement of any of the provisions hereof or of the Lease, and of all taxes, assessments and governmental charges assessed upon the property included in the trust and all taxes and governmental charges herein mentioned for which the Trustee, as such, may be liable, and

of the other rentals and of the other amounts provided for herein or in the Lease.

SECTION 2. The Company covenants and agrees and guarantees that the bearer or registered holder of each of the Trust Certificates shall receive the par value of One Thousand Dollars ($1,000), or, in the case of temporary Trust Certificates, the par value therein expressed to be payable, 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, when and as the same shall become due and payable, whether at the maturity thereof or otherwise under the provisions thereof or of this Agreement, and that the bearer of each dividend warrant shall receive the dividend specified therein in like coin or currency at the rate of two and three eighths (2⅜%) per cent. per annum, from June 15, 1949, to the date of maturity of such Trust Certificate, at the times and place and otherwise as expressed in such Trust Certificate and (except in the case of temporary Trust Certificates without dividends warrants) in the dividend warrants thereto attached; and the Company further covenants and agrees to endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by the Trustee, the Company's guaranty of the prompt payment thereof and of the dividends thereon, in 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 without the corporate seal of the Company which is hereby expressly waived. In case the officer of the Company who shall have signed said guaranty shall cease to be such officer of the Company before the Trust Certificates shall have been issued and delivered by the Trustee, or shall not have been such officer on the date of the Trust Certificates,

such guaranty shall, nevertheless, be as effective and binding upon the Company as though the person who signed such guaranty had not ceased to be such officer of the Company or had been such officer on the date of the Trust Certificates.

SECTION 3. The Company covenants and agrees that it will pay and discharge, or cause to be paid and discharged or make adequate provision for the satisfaction or discharge of any debt, tax, charge, assessment, obligation or claim which, if unpaid, might become a lien or charge upon or against any of the Trust Equipment; but this provision shall not require the payment of any such debt, tax, charge, obligation or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings unless such contest will, in the judgment of the Trustee, materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates.

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, or connected with the preparation, execution, recording, rerecording, registration, reregistration, filing and refiling hereof or of the Lease and of any instrument executed under the provisions hereof or of said Lease in respect of the Trust Equipment or of any equipment or parts used to replace any of the same.

The Company covenants that it will cause this Agreement and the Lease and all supplemental leases and agreements which may be executed under the terms of this Agreement or of the Lease, to be duly filed, registered or recorded and thereafter to be duly refiled, reregistered or rerecorded in all

States wherein are situated railroad lines owned or operated by it (either alone or jointly with another) or over which the Company has trackage rights, and in all States where any of the Trust Equipment shall be delivered hereunder or under the Lease, and otherwise as may be required by law for the full protection of the title of the Trustee and the rights of the holders of the Trust Certificates, so that this Agreement and the Lease and all said other instruments may at all times be duly registered, filed and recorded.

Such filing, registration or recording of this Agreement and the Lease or of any such supplemental agreement or lease, shall be effected in each of said States prior to the acceptance of delivery in, or the movement into, such State of any of the Trust Equipment subjected to the trust by virtue of such Agreement or Lease or supplemental agreement or lease.

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 the Lease and the intent hereof and thereof.

The Company covenants that it will make payment of the rentals on account of the Trust Equipment as provided in this Agreement and in the Lease, notwithstanding that any of the Trust Certificates and dividend warrants shall have been acquired by the Company and not presented for cancellation or shall not have been presented for payment. Any and all Trust Certificates and dividend warrants acquired by the Company shall be presented to the Trustee for payment on the respective due dates thereof, or at the option of the Company may be presented to the Trustee for cancellation prior to such dates, in which latter event the rentals

applicable to such cancelled certificates or dividend warrants shall not be deposited with the Trustee. The Trustee, having received the rentals applicable to the payment of the Trust Certificates and dividend warrants, shall make payments in discharge of the same as therein provided, and thereupon shall cancel the Trust Certificates and dividend warrants so paid, and no Trust Certificates or dividend warrants in substitution therefor shall be issued.

SECTION 6. It being contemplated that all of said Six Million Four Hundred Fifty Thousand Dollars ($6,450,000) of certificates shall be issued forthwith upon the deposit with the Trustee or to its credit as Trustee hereunder of Six Million Four Hundred Fifty Thousand Dollars ($6,450,000) in cash, as in Article I of this Agreement provided, the Company covenants that it will pay to the Trustee the said rentals when and as the same shall become due and payable, as in this Agreement and in the said Lease provided, notwithstanding that any of such payments shall have become so due and payable prior to the delivery under the Lease to the Company of any of the Trust Equipment.

ARTICLE IV

SECTION 1. Neither the Trustee nor the Company shall or will 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 as herein provided and cancelled, 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 assent to any arrangement for purchasing or funding any of said Trust Certificates or dividend warrants, or

for any 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 assent 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 assented to 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 the Lease or of this Agreement, except subject to the prior payment in full of the par value 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 specified in subparagraphs (a), (b) and (c) of Paragraph 11 of the Lease shall occur and shall continue for the time and after the notice therein prescribed, the Trustee in its discretion may, and upon the written request of the holders of not less than twenty-five per cent. (25%) in aggregate par value of the Trust Certificates then outstanding shall, upon being indemnified as hereinafter in Article V provided, by notice in writing delivered to the Company, declare the par value of all the Trust Certificates then outstanding to be due and payable, and thereupon the same shall become and be immediately due and payable without further demand, together with interest, to the extent permitted by law, at the rate of four per cent. (4%) per annum or any portion thereof overdue and the Trustee shall be entitled to enforce all the terms

and stipulations of the Lease for the benefit of the holders of the Trust Certificates.

ARTICLE V

SECTION 1. The Trustee hereby accepts the trusts imposed upon it by this Agreement and the Lease, and covenants and agrees to perform the same as herein and therein expressed.

SECTION 2. The Trustee covenants and agrees to apply and distribute the rentals received by it under subdivision B of Paragraph 2 of the Lease, when and as the same shall be received, for the following purposes and in the following order, to-wit:

(a) To the payment of the necessary and reasonable expenses of the trust, including compensation, expenses and liabilities provided for in this Agreement and all expenses connected with the Trust Equipment and the Lease thereof, including the purposes referred to in subparagraph (a) of subdivision B of Paragraph 2 of the Lease;

(b) To the payment of any and all taxes, assessments and other governmental charges assessed or levied upon the income or property of the trust, or the Agreements and Lease evidencing the same, which the Trustee as such may be required to pay;

(c) To the payment of the dividend warrants appertaining to the Trust Certificates, or in the case of the issue of temporary Trust Certificates without dividend warrants, to the payment of the dividends payable thereon, when and as such dividend warrants or dividends shall become payable, subject to the provisions of Section 1 of Article IV hereof;

(d) To the payment of the par value of the Trust Certificates outstanding when and as the same shall become payable according to the terms thereof or hereof, subject to the provisions of Section 1 of Article IV hereof; and

(e) To the payment of interest, to the extent permitted by law, upon any due and unpaid dividends on the Trust Certificates and upon any due and unpaid amounts of par value of Trust Certificates, at the rate of four per cent. (4%) per annum.

Nothing herein or in the Trust Certificates or the Lease contained shall be deemed to impose on the Trustee or on the Company any obligation to pay to the bearer or registered holder of any Trust Certificate or to the bearer of any dividend warrant any amount required by any law of the United States of America or of any State or subdivision thereof or of any Territory or of the District of Columbia to be withheld from the amount payable to the holder of any Trust Certificate or dividend warrant.

SECTION 3. The Trustee shall cause to be kept, at its office in the City of St. Paul, State of Minnesota, 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 it may prescribe, the par value of the Trust Certificates, but not the dividend warrants attached thereto or any other dividend warrants.

For any registration, transfer or discharge from registration, the Trustee shall require the payment by the holder of a sum sufficient to reimburse it for any tax, stamp tax or other governmental charge connected therewith.

SECTION 4. The Trustee shall not be required to undertake any act or duty in the way of taking care of or taking possession of the Trust Equipment or to undertake any other act or duty under this Agreement or the Lease until indemnified to its satisfaction by the Company or by one or more holders of the Trust Certificates against all liability and expenses. No duty of insurance or of repair or protection of any of the Trust Equipment is incumbent upon the Trustee, nor shall it be responsible for the filing, registration or recording or the refiling, reregistration or rerecording of this Agreement or of the Lease or of any other instrument executed pursuant hereto or thereto; and the Trustee may issue and deliver Trust Certificates in advance of such filing, registration or recording. In accepting delivery of and making payment for the Trust Equipment hereunder, the Trustee may rely upon and shall be fully protected by the certificates, bills of sale and opinions of counsel to be furnished to it under Section 5 of Article I of this Agreement and shall not be required to make any further investigation of or inquiry concerning the matters covered thereby.

SECTION 5. The Trustee shall be under no obligation to take any action for the execution or enforcement of the trust hereby created unless requested thereunto in writing by the holders of not less than twenty-five per cent. (25%) in aggregate par value of the Trust Certificates then outstanding and unless indemnified to its satisfaction against expense and liability and unless also furnished with proof satisfactory to it as to the ownership of the Trust Certificates and dividend 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 or in the Lease specifically given to the Trustee either to determine whether it shall take action 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 twenty-five per cent. (25%) in aggregate par value of the Trust Certificates then outstanding shall have been made upon the Trustee, and after indemnity satisfactory to it shall have been provided, the Trustee shall decline, fail or neglect for ninety (90) days after the furnishing of such indemnity to institute proceedings or take action for the execution and enforcement of the trust; nor shall any holder have any such right if the holders of a majority of the par value of the Trust Certificates shall have directed that no action be taken.

SECTION 7. The Trustee may conclusively assume for all purposes that the Company is not in default under the terms hereof or of the Lease until notified in writing to the con-

trary by the holders of not less than ten per cent. (10%) in aggregate par value of the Trust Certificates then outstanding, which notice shall distinctly specify the event of default desired to be brought to the attention of the Trustee.

SECTION 8. The Trustee shall not be liable on account of any action of the Trustee based upon any notice, consent, order, certificate, warrant or other paper or instrument believed by it to be genuine or authentic or to be signed by the proper party or parties.

SECTION 9. The Trustee shall not be liable for any delay in the delivery of any of the Trust Equipment, or for any default on the part of the manufacturers thereof or of the Vendor, or for any defect in any of said Trust Equipment, nor shall anything herein or in the Lease be construed as a warranty on the part of the Trustee in respect thereof or as a representation in respect of the value thereof or in respect of the title thereto.

The Trustee may perform its powers and duties hereunder and under the Lease by or through such attorneys, agents and servants as it shall appoint, and shall be entitled to rely upon the advice of counsel (who may be counsel of the Company), and shall be protected by the advice of such counsel in anything done or omitted to be done by it in accordance with such advice. The Trustee shall not be answerable for any act or omission to act in connection with the trust hereby created unless the same shall happen through its own negligence or wilful default. The Trustee shall not be responsible in any way for the recitals herein or in the Lease contained or for the execution or validity of this Agreement or of the Lease or of the Trust Certificates, or the guaranty by the Company, or for any mistake of fact or law.

The Trustee shall be entitled to receive payment of its liabilities and all its reasonable expenses and disbursements hereunder and under the Lease, including reasonable counsel fees, and to receive reasonable compensation for all services rendered by it in the execution of the trust hereby created, all of which shall be paid by the Company or in default of such payment out of the rentals or proceeds or avails of the Trust Equipment.

The Trustee in its individual capacity may own, hold and dispose of Trust Certificates and dividend warrants with the same rights which it would have if it were not Trustee.

SECTION 10. If at any time the Trustee shall desire to divest itself of title to the Trust Equipment and to terminate its duties and obligations and rights under this Agreement, the Lease and the Trust Certificates, it shall so notify the Company in writing and the Company shall thereupon designate in writing to the Trustee a national bank or a trust company, qualified as below specified to serve as successor to the Trustee until and unless a substituted successor trustee shall be appointed by the holders of Trust Certificates as hereinafter provided, to which may be assigned the entire right, title and interest of the Trustee in the Trust Equipment and in which may be vested the rights, powers, duties and obligations of the Trustee under this Agreement, the Lease and the Trust Certificates. Upon the transfer and delivery of all moneys, United States Government securities, if any, and Trust Equipment held by the Trustee, and of all books, records, documents and instruments necessary for the execution of the trust, and payment of its compensation, expenses and liabilities, and upon the execution by the retiring Trustee of such instruments of transfer as reasonably may be required by the successor, and upon acceptance by the suc-

cessor of the assignment and of the trust, the retiring Trustee shall be relieved and discharged of all the title, rights, powers, duties and obligations of the trust under this Agreement, the Lease and the Trust Certificates, and the same shall become vested in such successor as Trustee, and every provision of this Agreement and the Lease applicable to the retiring Trustee shall apply to such successor Trustee with like effect as if originally named herein and therein in the place and stead of the party of the second part. In the event that the Company shall fail to designate such a successor by instrument in writing delivered to the retiring Trustee within fifteen (15) days from the date of receipt of such notice in writing from the retiring Trustee, the retiring Trustee may thereupon designate such successor Trustee. In case a successor Trustee shall be appointed at any time by the Company or by the retiring Trustee pursuant to the foregoing provisions of this Section, the holders of a majority in par value of the Trust Certificates then outstanding shall have the right, at any time within six months after the date of said written notice received by the Company under this Section, to appoint and substitute a successor Trustee chosen by such majority of said holders. Such appointment shall be made by an instrument in writing executed by such majority of such holders, in duplicate, and by delivery of one copy thereof to the Company and one copy thereof to the successor Trustee appointed by the Company or by the Trustee under this Section. Thereupon, within fifteen (15) days after such delivery of such written instrument of appointment, such successor Trustee, shall transfer and deliver to such substituted successor Trustee all moneys, United States Government securities, if any, and Trust Equipment held by it and all books, records, documents and instruments necessary for the execution of the trust, and shall

execute such instruments of transfer as reasonably may be required by the substituted successor Trustee; and upon acceptance thereof by such substituted successor Trustee the retiring successor Trustee shall be relieved and discharged of all the title, rights, powers, duties and obligations of the trust under this Agreement, the Lease and the Trust Certificates, and the same shall become vested in such substituted successor Trustee, and every provision of this Agreement and the Lease applicable to the successor Trustee shall apply to such substituted successor Trustee with like effect as if originally named herein and therein in the place and stead of the party of the second part.

In any such event such successor Trustee or substituted successor Trustee shall execute and deliver to the Company an acceptance of the trust in such form as the Company shall reasonably request, and the Company shall execute all such writings recognizing the transfer of title as aforesaid and all such instruments of further assurance or otherwise as may be reasonably requested by the successor Trustee or substituted successor Trustee in the premises, and shall do and perform any and all acts necessary to establish and maintain the title and rights of the successor Trustee or substituted successor Trustee in and to the Trust Equipment. Every successor Trustee or substituted successor Trustee shall be a national bank or a trust company doing business in the Borough of Manhattan, City of New York, State of New York, and having a capital and surplus aggregating at least Five Million Dollars ($5,000,000), if there be such national bank or trust company willing and able to accept the trust upon reasonable and customary terms.

Any corporation resulting from any merger or consolidation to which the Trustee or its corporate successor shall be a party, or any corporation shown to the satisfaction of

the Company to have succeeded in any manner to the business of the Trustee as a whole or substantially as a whole, provided in either event such corporation shall be one having corporate power to act as trustee hereunder organized under the laws of the United States of America or of the State of New York, doing business in the Borough of Manhattan, City of New York, State of New York, and having a capital and surplus aggregating at least Five Million Dollars ($5,000,000), shall be the successor Trustee under this Agreement and the Lease 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.

All of the provisions of this Section relating to retirement of the Trustee, appointment of successor Trustee by the Company, by the Trustee or by the holders of Trust Certificates, and succession (whether by appointment or otherwise) and qualification of successor Trustees shall apply to any future Trustee in like manner as to the party of the second part.

ARTICLE VI

No recourse under any obligation, covenant or provision of this Agreement or of the Lease, 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, said Lease 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 said Lease or in the guaranty of the Company respecting any of the Trust Certificates or dividend warrants issued hereunder, or implied therefrom or from any present or future law relative thereto, and that any and all 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 of said Lease and the issue of such Trust Certificates and dividend warrants.

ARTICLE VII

Any request or other instrument provided by this Agreement or the Lease to be signed or executed by holders of Trust Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such holders in person, or by an agent or attorney appointed by an instrument in writing. Proof of the execution of any such request or other instrument, or of a writing appointing any such agent or attorney, or of the holding by any person of Trust Certificates, shall be conclusive in favor of the Trustee with regard to any action taken by the Trustee under such request or other instrument, and may be relied upon by the Trustee for any purpose of this Agreement or the Lease, if made in the following manner:

(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 (i) by the certificate of any notary public or of any other officer authorized to take acknowledgments of deeds to be recorded in the state where the

acknowledgment may be taken, certifying that the person signing such request or other instrument acknowledged to him the execution thereof, or (ii) by the affidavit of a witness to such execution;

(b) The amount of unregistered Trust Certificates held by any person executing any such request or other instrument as a holder of Trust Certificates, 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, wherever situated, if deemed satisfactory by the Trustee, showing that at the date therein mentioned such person had on deposit with or exhibited to such depositary the unregistered Trust Certificates numbered and described in such certificate. The Trustee may presume the continuance of any such holding unless and until it shall receive proof satisfactory to it to the contrary; and

(c) The ownership of Trust Certificates registered as to par value shall be proved only by the registration books of the Trustee.

ARTICLE VIII

At the termination of the Lease to the Company, any moneys and securities derived from this Agreement or the Lease remaining in the hands of the Trustee, after paying the par value of and any dividends upon the Trust Certificates, and the expenses and liabilities of the Trustee, including its reasonable compensation and counsel fees, shall be paid or delivered to the Company.

ARTICLE IX

Nothing in this Agreement or in the Lease 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 dividend warrants, appertaining thereto, 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 undertakings of this Agreement and the Lease shall be for the sole and exclusive benefit of the parties hereto and their successors and assigns and, subject to the provisions of Section 6 of Article V of this Agreement, of the holders of the Trust Certificates and dividend warrants.

ARTICLE X

The term "Trustee" as used herein and in the Lease shall be held and construed to mean First Trust Company Saint Paul and, unless otherwise indicated by the context, any successor Trustee or substituted successor Trustee appointed pursuant to the provisions of Section 10 of Article V hereof, and the word "Company" shall be held and construed to mean and include Northern Pacific Railway Company, its successors and assigns; and the word "holder" shall include the plural as well as the singular number and, unless otherwise indicated by the context, shall mean and include the bearer of any unregistered Trust Certificate and of any dividend warrant and the registered holder of any registered Trust Certificate. The liabilities of the Trustee wherever referred to herein or in the Lease shall be held and construed

to mean all liabilities incurred by the Trustee arising out of or connected with this Agreement or the Lease or the ownership or use of any of the Trust Equipment other than those liabilities resulting from its own negligence or wilful default. The term "Trust Equipment", wherever used herein or in the Lease, unless otherwise indicated by the context, is intended to include all railroad equipment at any time covered by the Lease or any supplemental lease or this Agreement or required or intended so to be.

Whenever under the provisions hereof or of the Lease it is necessary or proper for any notice or demand to be made to or upon the Company, or the Trustee, 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 by depositing a written statement thereof, securely enclosed in a postpaid wrapper, for transmission by registered United States mail, directed to the Company at 14 Wall Street, New York, New York, or to such other address as the Company at any time shall designate by written notice to the Trustee, or directed to First Trust Company of Saint Paul, at its office in the First National Bank Building, at 322 Minnesota Street, St. Paul, Minnesota, or to such other address as the Trustee at any time shall designate by written notice to the Company, and an affidavit by any person representing or acting on behalf of the Trustee or of the Company, respectively, as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such notice or the making of such demand.

This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

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

In Witness Whereof, the Vendor and the Trustee and the Company 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 June 15, 1949.

Northwestern Improvement Company,

By .....
Vice President.

(SEAL)

Attest:
.....
Secretary.

First Trust Company of Saint Paul,

By .....
Vice President.

(SEAL)

Attest:
.....
Secretary.

Northern Pacific Railway Company,

By .....
President.

(SEAL)

Attest:
.....
Assistant Secretary.

Signed, sealed and delivered by Northwestern Improvement Company, First Trust Company of Saint Paul and Northern Pacific Railway Company, in the presence of:

.....

.....

As Witnesses to all signatures.

(United States Internal Revenue Stamps for $7,000 have been affixed to an original counterpart hereof in the possession of the Trustee and have been duly cancelled.)

STATE OF MINNESOTA, }
COUNTY OF RAMSEY, } ss.

I, C. B. Theits, 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 8th day of June, A. D. 1949, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument bearing date as of June 15, 1949, J. H. Poore and A. M. Gottschald, each to me personally known and known to me to be respectively the Vice President and Secretary of Northwestern Improvement 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 to be duly authorized to make this acknowledgment as hereinafter stated, and the said J. H. Poore and A. M. Gottschald, 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. H. Poore resides at 1495 Goodrich Avenue, St. Paul 5, Minnesota, and that said A. M. Gottschald resides at 929 West Arlington Avenue, St. Paul 3, Minnesota; and said J. H. Poore is Vice President and said A. M. Gottschald is Secretary of Northwestern Improvement 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 A. M. Gottschald, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the by-laws of such corporation and by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and 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.

C. B. Theits

(SEAL)

C. B. Theits, Notary Public,
Ramsey County, Minnesota.
My Commission Expires
January 24, 1951.

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STATE OF MINNESOTA, }
COUNTY OF RAMSEY, } ss.

I, C. B. Theits, 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 June, A. D. 1949, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument bearing date as of June 15, 1949, Russell M. Collins, and Harold C. Soderman, each to me personally known and known to me to be respectively a Vice President and Secretary of First Trust Company of Saint Paul, 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, repectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such and to be duly authorized to make this acknowledgment as hereinafter stated, and the said Russell M. Collins and Harold C. Soderman 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 Russell M. Collins resides at 2069 Iglehart Avenue, St. Paul (4), Minnesota, and that said Harold C. Soderman resides at 975 Delaware Avenue, St. Paul (7), Minnesota, that said Russell M. Collins is a Vice President and said Harold C. Soderman is Secretary of First Trust Company of Saint Paul, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Russell M. Collins and Harold C. Soderman know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the by-laws of such corporation and by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and 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.

C. B. Theits

(SEAL)

C. B. Theits, Notary Public,
Ramsey County, Minnesota.
My Commission Expires
January 24, 1951.

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LEASE

THIS LEASE AGREEMENT, dated as of June 15, 1949, by and between Elmer Trust Company of Saint Paul, a corporation duly organized and existing under the laws of the State of Minnesota (hereinafter called the "Trustee"), of the first part, and Northern Pacific Railway Company, a corporation duly organized and existing under the laws of the State of Wisconsin (hereinafter called the "Company"), of the second part,

WITNESSETH: That

WHEREAS, by a certain Agreement (hereinafter called the "Agreement"), bearing even date herewith, among Northwestern Improvement Company, Vendor, Elmer Trust Company of Saint Paul, Trustee, and Northern Pacific Railway Company, a counterpart original whereof is hereto prefixed and made a part hereof, there was constituted "Northern Pacific Railway Equipment Trust of 1949, Second Series", under which the equipment hereinafter described has been or will be transferred to the Trustee and the title thereto vested in the Trustee, and leased to the Company hereunder;

NOW, THEREFORE:

1. In consideration as well of the sum of one dollar paid by the Company to the Trustee at or before the ensealing and delivery hereof, the receipt whereof is hereby acknowledged, as of the rents and covenants hereinafter mentioned to be paid, kept and performed by the Company, the Trustee has

let and leased, and by these presents does hereby let and lease, to the Company for the term of fifteen (15) years from and after June 15, 1949, unless sooner terminated as hereinafter provided, all the following described new standard-gauge railroad equipment, constructed of unused material, whether the same be owned by the Trustee at the date hereof or be hereafter acquired by it, to-wit:

No. of Units	Description of Equipment	Estimated Cost per Unit of Locomotive	Road Numbers (both inclusive)
250	50-ton capacity all-steel Gondola cars	$2300	80500-80749
760	50-ton capacity steel-sheeted wood-lined box cars	4900	18000-18749
200	75-ton all-steel ore cars	5400	78300-78499
4	4500-H. P. Diesel-electric passenger locomotives, consisting of 9 "A" units estimated to cost $180,460 each, and 3 "B" units, estimated to cost $165,682 each	(average cost) 230,320	6500-6513

together with such other railroad equipment as may be acquired for said trust in substitution for any of the equipment above described, or in addition thereto, and subjected to this Lease as hereinafter provided (hereinafter collectively called the "Trust Equipment").

The estimated cost of the railroad equipment above specifically described, when completed, is not less than Eight Million One Hundred Seventy-six Thousand Dollars ($8,176,000), the respective estimated unit prices being as hereinbefore set out.

STATE OF MINNESOTA, } ss.
COUNTY OF RAMSEY, }

I, C. B. Thiele, 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 24 day of June, A. D. 1949, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument bearing date as of June 15, 1949, C. E. Denney and Hugh McLeod each to me personally known and known to me to be respectively President and an Assistant Secretary of Northern Pacific Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and to be duly authorized to make this acknowledgment as hereinafter stated, and the said C. E. Denney 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 said C. E. Denney resides at 295 Summit Avenue, St. Paul 2, Minnesota, and that said Hugh McLeod resides at 1987 Princeton Avenue, St. Paul 5, Minnesota; and said C. E. Denney is President and said Hugh McLeod is an Assistant Secretary of Northern Pacific Railway Company, one of the corporations described in and which executed the within and foregoing instrument in

writing; that they, said C. E. Denney and Hugh McLeod, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the by-laws of such corporation and by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as 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 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.

.....
C. B. Thiele, Notary Public,
Ramsey County, Minnesota.
My Commission Expires
January 24, 1951.

(SEAL)

If strikes, material shortages, or other causes beyond its control prevent the Vendor from acquiring any of the Trust Equipment above specifically described, then to the extent that such acquisition is prevented, at the election of the Company, there may be acquired and subjected to this Lease as and when acquired, 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 Company, and of a total cost not less than the estimated cost of the equipment in place of which it was acquired. The substituted Trust Equipment shall be deemed a part of the Trust Equipment for all purposes including the payment of "deposited cash" in respect of the cost thereof, and the equipment in place of which the substituted equipment is acquired shall be eliminated from the Trust Equipment. The Trustee shall execute to the Company a supplemental lease of such substituted equipment, subjecting it to all the terms and conditions hereof.

If the aggregate final cost of all the Trust Equipment acquired by the Vendor as specifically described above or in substitution therefor pursuant to the provisions of paragraph two of Section 1 of Article I of the Agreement should be less than Eight Million One Hundred Seventy-six Thousand Dollars ($8,176,000), then in addition to that equipment there shall be acquired by said Vendor, and subjected to this Lease, other new standard-gauge railroad equipment, other than work equipment, of such classes or types as may be approved by the Company, of substantially as good material and construction as the equipment above specifically described, and of such cost that the aggregate final cost of all the Trust Equipment acquired will be at least said sum; and the Trustee shall execute to the Company a supplemental lease there-

of, describing the same and stating the estimated cost thereof, upon and subject to the terms and conditions hereof and of the Agreement and such additional equipment shall be part of the Trust Equipment, subject to all the terms and conditions hereof and of the Agreement in all respects as though it had been part of the original Trust Equipment hereto described.

As and when any of the Trust Equipment shall from time to time be transferred and delivered to the Trustee under the Agreement and marked in accordance with the provisions of Paragraph 4 hereof, the same shall be delivered by the Trustee to the agents of the Company at the place or places provided for in Section 1 of Article I of the Agreement and shall upon such delivery to the Railroad Company, *upon fusto* and without further deed of lease or transfer, pass under and become subject to all the terms and provisions of this Lease, and be deemed a portion of the Trust Equipment leased by the Trustee to the Company hereunder in all respects as if the same had been so delivered simultaneously with the execution and delivery hereof, and at and for the rent hereinafter set out, and upon the terms, conditions and covenants following.

2. The Company hereby accepts (subject to the terms of the Agreement) this Lease of the Trust Equipment and hereby agrees to accept delivery and possession hereunder of said Equipment as hereinbefore provided; and the Company covenants and agrees to pay, in such coin or currency of the United States of America as at the time of payment shall be legal tender for public and private debts, to the Trustee, at its address, at the principal office of the Trustee, in the City of St. Paul, State of Minnesota, 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 provided in said Agreement, the Company shall pay to the Trustee, as advance rental under this Lease, sums which in the aggregate shall be equal to the difference between the total cost of the Trust Equipment and the portion of such cost to be provided out of the net proceeds of sale of the Trust Certificates to be issued as set forth in the Agreement, the intention being that when all of the Trust Equipment shall have been delivered to the Trustee, the Company shall have paid or shall pay to the Trustee, as advance rental under this Lease, a sum equal to the amount by which the entire cost of the Trust Equipment exceeds the net proceeds of the sale of the aforesaid Trust Certificates and in no event less than twenty-one per cent. (21%) of the entire cost of the Trust Equipment. The Company agrees to pay such advance rental as follows:

(a) Promptly upon the execution of this Lease, if necessary, a sum which when added to the net proceeds of the sale of the Trust Certificates paid to the Trustee by the Vendor, will make the total sum deposited equal to Six Million Four Hundred Fifty Thousand Dollars ($6,450,000);

(b) From time to time upon delivery of any of the Trust Equipment to the Trustee, and part payment thereof by the Trustee out of "deposited cash" (as defined in Section 4 of Article I of the Agreement), amounts equal to the remainder of the cost of such delivered equipment, being not less than twenty-one per cent. (21%) of such cost.

B. In addition to such advance rental the Company shall pay to the Trustee, from time to time as below provided, as rental for the Trust Equipment and replacements, and whether or not at the time any thereof shall have been delivered to the Company, the following:

(a) The necessary and reasonable expenses of the trust, including compensation, expenses and liabilities provided for in the Agreement and all expenses connected with the Trust Equipment and this Lease thereof; and expenses or obligations for any other amounts incurred or sustained in connection with any purchase or sale of United States Government securities including premiums and accrued interest payable in connection with any such purchase; and, when and as demanded by the Trustee, any sums which under the provisions of Section 6 of Article I of said Agreement shall be required to make up any deficit resulting from the sale of United States Government securities for less than the amount of "deposited cash" or other cash applied to their purchase;

(b) Amounts sufficient to discharge any and all taxes, assessments and governmental charges assessed or levied upon or on account of the income or property of the trust, or the Agreement and this Lease evidencing the same, which the Trustee as such may be required to pay;

(c) A sum equal to the dividend warrants apportionable to the Trust Certificates, when and as the same shall become payable, and, in the case of the issue of temporary Trust Certificates without dividend warrants,

the dividends payable thereon at the rate of two and three-eighths (2⅜%) per cent. per annum; also, to the extent permitted by law, a sum equal to interest at the rate of four per cent. (4%) per annum, from the due date, upon the amount of any installments of rental payable under this subparagraph (c) and the following subparagraph (d) which shall not be paid when due; and

(d) The amount of the par value of the Trust Certificates outstanding, when and as the same shall become payable, whether upon the respective dates of maturity thereof or otherwise under the provisions thereof or of the Agreement, such respective dates of maturity being as follows: Four Hundred Thirty Thousand Dollars, ($430,000) on the 15th day of June in each year from June 15, 1950 to June 15, 1964, both inclusive.

Nothing herein or in the Trust Certificates or the Agreement contained shall be deemed to impose on the Trustee or on the Company any obligation to pay to the bearer or registered holder of any Trust Certificate or to the bearer of any dividend warrant any amount required by any law of the United States of America or of any State or subdivision thereof or of any Territory or of the District of Columbia to be withheld from the amount payable to the holder of any Trust Certificate or dividend warrant.

3. At the termination of this Lease and after all payments due or to become due from the Company hereunder and under the Agreement shall have been completed and fully made to the Trustee, such payments shall be then applied as purchase money and treated as the full purchase price of the

Trust Equipment, and the title to all of the Trust Equipment and to all replacements thereof made hereunder shall vest in the Company, and thereupon the Trustee shall execute for recording or filing in public offices such instrument or instruments in writing as reasonably shall be requested by the Company in order then to make clear upon the public records the title of the Company to all of the Trust Equipment and replacements thereof, under the laws of any jurisdiction; *provided, however*, and it is hereby 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.

4. At or before the delivery to the Company of each unit of the Trust Equipment, there shall be permanently and conspicuously placed and fastened upon each side thereof a metal plate bearing the following words plainly and distinctly marked in letters not less than one inch in height:

NORTHERN PACIFIC RAILWAY EQUIPMENT TRUST OF 1949,
SECOND SERIES.

FIRST TRUST COMPANY OF SAINT PAUL,
TRUSTEE, OWNER, LESSOR.

Such plates 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 shall at any time be removed, defaced or destroyed, the Company shall immediately cause the same to be replaced.

The Company shall not change, or permit to be changed, the road numbers of any of the Trust Equipment at any time covered by this Lease (nor any road numbers which may be substituted as herein provided), except in accordance with a statement of new road numbers to be substituted therefor, which shall previously have been filed with the Trustee by the Company and consented to by the Trustee and, if necessary in the opinion of the Trustee, recorded or filed in each public office where this Lease or the Agreement or any supplement to either shall have been recorded or filed.

The Company will not allow the names of any persons, associations or corporations to be placed on any of the Trust Equipment as a designation which might be interpreted as a claim of ownership by the Company or anyone other than the Trustee; *provided, however*, that the Company may cause the said equipment to be lettered "NORTHERN PACIFIC", or in some other and substantially similar manner for convenience of identification of the leasehold interest of the Company therein.

5. The Company covenants and agrees to indemnify the Trustee against all claims arising out of or connected with

the ownership or use of any of the Trust Equipment or replacements thereof, other than those resulting from its own negligence or wilful default, and particularly against any or all claims arising out of the use of any patented inventions in and about the Trust Equipment or replacements, 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 part thereof may be operated, and with all lawful acts, rules, regulations and orders of the Interstate Commerce Commission and of all other commissions or boards, and of all other legislative, executive or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including without limitation all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; *provided, however*, that the Company may in good faith contest the validity of any such law, act, rule, regulation or order or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which, in the judgment of the Trustee, will not materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates. The Company shall not be relieved from any of its obligations under this Lease by reason of the assertion or enforcement of any such claims or the commencement or prosecution of any litigation in respect thereof.

6. 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 worn out, or unsuitable, or not needed for the use of the Company, should be released and promptly sold and replaced, it is hereby mutually understood

and agreed that at any time hereafter until title thereto shall become vested in the Company, the Trustee will sell any such units of the Trust Equipment then subject to this Lease, upon the written request of the Company, signed by either its President, a Vice President, its Treasurer, or its Comptroller, accompanied by a certified copy of a resolution of its Board of Directors or Executive Committee authorizing such request, describing such units, and noting that they have become worn out, or unsuitable, or not needed for the use of the Company, stating the name of the proposed purchaser, the selling price thereof and specifying the original cost and fair value in good condition thereof. No such sale of any of the Trust Equipment shall be made for less than the fair value of the unit sold as in good condition at the time of sale, unless and until the Company shall have paid to the Trustee the difference between the price at which it is to be sold and such fair value as in good condition. The proceeds of all such sales shall be received by the Trustee in trust for the benefit of the holders of the Trust Certificates pending replacement of such trust equipment.

The Company, during the continuance of this Lease, shall maintain and keep all of the Trust Equipment hereby leased to it in good order and repair at its own proper cost and expense, and shall replace at its own cost any of said equipment that may be released, worn out, unsuitable for use, lost or destroyed, by new standard-gauge railroad equipment, other than work equipment, marked as provided in Paragraph 4 of this Lease, of substantially as good material and construction and of a value equal to the fair value, determined as hereinafter in this Paragraph 6 provided, of the equipment so released, worn out, unsuitable for use, lost or destroyed, the value of the new equipment to be deemed its cost, if that

be below market value, or its market value if that be below cost, and shall cause the title to all such new equipment to be vested in the Trustee, free from any lien or charge; provided, however, that the Company may, in lieu of such replacement, or pending replacement of such Trust Equipment, deposit with the Trustee in cash and in trust for the benefit of the holders of the Trust Certificates, the then fair value, determined as hereinafter in this Paragraph 6 provided, of the Trust Equipment so released, worn out, unsuitable for use, lost or destroyed. Any cash so deposited with the Trustee, shall at the request of the Company be invested in United States Government securities upon the terms and conditions provided in Section 6 of Article I of the Agreement. All such new equipment shall forthwith become subject to the terms and conditions of this Lease and of the Agreement as though it had been part of the original Trust Equipment, and the Trustee shall execute to the Company a supplemental lease thereof. At the time of every such replacement, the Company shall deliver to the Trustee a certificate, which the Trustee may accept as conclusive, of the President or a Vice President of the Company, stating the cost and reasonable market value of the new equipment used for such replacement and the fair value, determined as hereinafter in this Paragraph 6 provided, of the Trust Equipment so released, worn out, unsuitable for use, lost or destroyed, together with a bill or bills of sale, an opinion of counsel (who may be counsel of the Company) satisfactory to the Trustee, and a certificate as to delivery, all in like manner as is provided in Section 5 of Article I of the Agreement. The rights and remedies of the Trustee under this Lease and the rights of the Trustee to recover any of the rental payments from the Company shall not be affected by reason of the leased equipment or any

thereof becoming released or wholly or partly worn out, unsuitable for use, lost or destroyed.

For the purpose of this Paragraph 6, the fair value of any unit of the Trust Equipment shall be considered to be the original cost thereof less five per cent. (5%) of said original cost for each full year (but not pro rata for any part of a year) during which the unit was subject to this Lease prior to the date at which the fair value is so to be determined.

7. The Company will furnish to the Trustee, on or before the 31st day of March, 1950, and on or before the 31st day of March in every year thereafter during the continuance of this Lease, an accurate statement of inventory, signed by either its President, a Vice President, its Treasurer, or its Comptroller, as of the preceding 31st day of December, of the said equipment then in actual service, and the road number and description of such as may have become worn out, unusable for use, or lost or destroyed by accident or otherwise, and of such as may have been repaired, other than those subjected to running repairs, during the previous year, and also the numbers of any then undergoing such repair and in the shops for such repair. Together with said statement the Company shall also furnish to the Trustee a statement similarly signed, stating that in the case of all of the Trust Equipment repaired during the preceding year the plates required by Paragraph 4 of this Lease have been preserved thereon, or that the Trust Equipment when repaired has been again plated as required by said Paragraph. The Trustee may nevertheless, in its discretion, if it deems it necessary for the protection of the bearers and registered holders of the Trust Certificates, at any time and at the expense of the Company,

make investigation of such of the aforesaid matters and inspection of such of the Trust Equipment as the Trustee may deem desirable, and the Company covenants in that event to furnish to the Trustee all reasonable facilities for the making of such investigation or inspection.

8. 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 its lines of railroad or over those which the Company at the time shall have 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 and the Agreement.

9. The Company covenants to file, register and record and to refile, reregister and rerecord this Lease and the Agreement and any supplemental leases or agreements provided for herein or in the Agreement, as provided in Section 4 of Article III of the Agreement.

10. The Company shall not 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. A transfer to a railroad company which shall acquire all or substantially all the lines of railroad of the Company and which shall assume and agree to perform each and all the obligations and covenants of the Company hereunder and under the Agreement

and under the guaranty provided for in the Agreement shall not be deemed a breach of this covenant, but the appointment of a receiver or receivers or trustee or trustees in bankruptcy for the Company, or its property, or the filing of a petition, whether voluntary or involuntary, under the Federal Bankruptcy Act shall be deemed an unauthorized assignment by the Company of its rights and interest in the Trust Equipment and shall be deemed a breach of this convenant, unless any such receiver or receivers or trustee or trustees shall have been discharged within thirty (30) days after his or their appointment, or within a like period shall have assumed and agreed to perform each and all of the obligations and covenants hereunder and under the Agreement, in either case pursuant to due order or authority of the court by which he or they shall have been appointed, or any such petition shall have been withdrawn and proceedings thereon terminated within a like period. The Trustee hereunder shall have the right to declare this Lease terminated in case of any unauthorized assignment or transfer of this Lease or unauthorized 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.

11. In case the Company

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

(b) shall make or suffer any unauthorized assignment or transfer of its rights or interests in the Trust Equipment or any unauthorized sublease of, or, except as

herein authorized, part with the possession of the Trust Equipment, 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 to recover possession of such Trust Equipment within thirty (30) days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said thirty (30) 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 and not so recovered (any sum so deposited to be returned to the Company upon the cancellation of such assignment, transfer or sublease and the recovery of possession by the Company of such Trust Equipment), or

(c) 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 the 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 the Agreement sometimes called "events of default"), the Trustee, subject to the provisions of Section 2 of Article IV of the Agreement with respect to the authority of the holders of a majority in par value of the Trust Certificates to direct and control the action of the Trustee, at its option, may, and upon the written request of the holders of not less than twenty-five per cent. (25%) in aggregate par value of the Trust Certificates then outstanding and upon being indemnified as in Article VI of

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the Agreement provided shall, by notice in writing delivered to the Company, declare to be due and payable forthwith the entire amount of the rentals (including any unpaid advance rental) payable by the Company as set forth in Paragraph 2 of this Lease, and not theretofore paid; and thereupon the entire amount of said rentals shall become and shall be due and payable immediately, without further demand, together with interest, to the extent permitted by law, at the rate of four per cent. (4%) per annum on any portion thereof overdue; and for the total amount so becoming forthwith payable by the Company, the Trustee shall be entitled to recover judgment, with interest at the rate permitted by law, and to collect such judgment out of any property of the Company wherever situated. Any and all moneys so collected by the Trustee shall be applied by it as hereinafter provided.

12. The Company covenants that the Trustee, in case of the happening of any such event of default, also 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 any *per diem*, mileage or other charges of any kind earned by the Trust Equipment or any part thereof, and may lease the Trust Equipment or any part thereof, or with or without retaking possession thereof (but only after making the declaration hereinabove provided for) may sell the same or any part thereof, free from any and all claims of the Company, at law or in equity, in one lot and as an entirety, or in separate lots, in so far as may be necessary to perform and fulfill the

trusts under the 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 the Agreement and under this Lease in the manner therein and herein provided.

Upon any such sale, the Trustee itself may bid for the property offered for sale or any part thereof.

13. 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 for the delivery of the Trust Equipment to it, the Company shall, at its own expense, forthwith and in the usual manner, cause the Trust Equipment to be moved to such point or points on said railroad as shall be designated by the Trustee and shall there deliver or cause to be delivered the same to the Trustee; or, at the option of the Trustee, the Trustee may keep the Trust Equipment on any of the lines of railroad or premises of the Company until the Trustee shall have leased, sold or otherwise disposed of the same, and for such purpose the Company agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Trustee reasonably convenient to the Company. It is hereby expressly covenanted and agreed that the covenants in this Paragraph contained are of the essence of the contract and that, upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

14. Any such sale or sales may be held or conducted at such place or places and at such time or times, as the Trus-

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tee may specify, or as may be required by law, and without gathering at the place of sale the Trust Equipment to be sold, and in general in such manner as the Trustee may determine, but so that the Company may and shall have a reasonable opportunity to buy at such sale.

15. 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 to the Trust Equipment against the Trustee or the owners of interests in the trust. No such taking possession or withdrawal or lease or sale of the Trust Equipment by the Trustee shall be a bar to the recovery by the Trustee from the Company of rentals then or thereafter due and payable, and the Company shall be and remain liable for the same until such sums have been realized as with the proceeds of the lease or sale of the Trust Equipment shall be sufficient for the discharge and payment in full of all the items mentioned in Paragraph 2 hereof, whether they shall have then matured or not.

16. If, in case of the happening of any such event of default, the Trustee shall exercise any of the powers con-

ferred upon it by this Lease, all payments made by the Company to the Trustee under this Lease after such event of default, and the proceeds of any judgment collected by the Trustee from the Company hereunder, and the proceeds of every sale or lease by the Trustee hereunder of any of the Trust Equipment and replacements, together with any other sums which may then be held by the Trustee under any of the provisions of this Lease, shall be applied by the Trustee in the order of priority following: (a) To the payment of all proper charges of the Trustee including liabilities, and compensation and expenses properly incurred or advances made by the Trustee in accordance with the provisions of this Lease or the Agreement, including the expense of any retaking of the whole or any part of the Trust Equipment and all expenses of the custody and of any sale or lease thereof, and (b) to the payment of all sums of money due and payable to the Trustee under the provisions of this Lease. After all such payments shall have been made in full, the title to any of the Trust Equipment remaining unsold shall be conveyed by the Trustee to the Company, free from any further liabilities or obligations to the Trustee hereunder. If, after applying all of such sums of money realized by the Trustee as aforesaid, there shall remain any amount due to the Trustee under the provisions of this Lease, the Company agrees to pay the amount of such deficit to the Trustee. If, after applying as aforesaid the sums of money realized by the Trustee, there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to the Company.

17. The remedies in this Lease and in the 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.

18. The foregoing provisions, however, are subject to the condition that if at any time after the Trust Certificates shall have been declared due and payable, as provided in the Agreement, all arrears of rentals with interest as hereinabove provided and the compensation, expenses and liabilities of the Trustee and all other sums which shall have become due and payable by the Company under this Lease or under the Agreement (other than the par value 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 Lease or the Agreement 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 may, and if so requested by the bearers or registered holders of a majority in aggregate par value 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 Trust Certificates shall have been declared and become due and payable and waive the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

19. 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 of the Trust Equipment, on the part of the Trustee or on the part of any bearer or registered holder of any Trust Certificate or the bearer of any 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 Lease or under the Agreement or under its guaranty.

20. This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

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

IN WITNESS WHEREOF, the Trustee, 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 June 15, 1949.

FIRST TRUST COMPANY OF SAINT PAUL,
As Trustee,

By Russell McCollum
Vice President.

(SEAL)

Attest:

Harold C. Sodeman
Secretary.

NORTHERN PACIFIC RAILWAY COMPANY,

By _____,
President.

(SEAL)

Attest:

_____,
Assistant Secretary.

Signed, sealed and delivered by FIRST TRUST COMPANY OF SAINT PAUL and NORTHERN PACIFIC RAILWAY COMPANY, in the presence of:

_____,

_____,

As Witnesses to all Signatures.

STATE OF MINNESOTA, } ss.
COUNTY OF RAMSEY, }

I, C. B. Theitz, 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 8th day of June A. D. 1949, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument bearing date as of June 15, 1949, Russell M. Collins and Harold C. Soderman, each to me personally known and known to me to be respectively a Vice President and Secretary of First Trust Company of Saint Paul, one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such and to be duly authorized to make this acknowledgment as hereinafter stated, and the said Russell M. Collins and Harold C. Soderman 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 Russell M. Collins resides at 2069 Iglehart Avenue, St. Paul 4, Minnesota, and that said Harold C. Soderman resides at 975 Delaware Avenue, St. Paul (7), Minnesota, that said Russell M. Collins is a Vice President and said Harold C. Soder-

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man is Secretary of First Trust Company of Saint Paul one of the corporations described in and which executed the within and foregoing instrument in writing; that they, said Russell M. Collins and Harold C. Soderman know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the by-laws of such corporation and by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instruments 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.

_____
C. B. Theitz, Notary Public,
Ramsey County, Minnesota.
My Commission Expires
January 24, 1951.

(SEAL)

STATE OF MINNESOTA, } ss.
COUNTY OF RAMSEY, }

I, C. B. Theitz, 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 8th day of June A. D. 1949, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument bearing date as of June 15, 1949, C. E. Denney and Hugh McLeod; each to me personally known and known to me to be respectively President and an Assistant Secretary of Northern Pacific Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and to be duly authorized to make this acknowledgment as hereinafter stated, and the said C. E. Denney 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 C. E. Denney resides at 295 Summit Avenue, St. Paul 2, Minnesota, and that the said Hugh McLeod resides at 1967 Princeton Avenue, St. Paul 5, Minnesota; and said C. E. Denney is President and said Hugh McLeod is an Assistant Secretary of Northern Pacific Railway Company, one of the corpora-

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tions described in and which executed the within and foregoing instrument in writing; that they, said C. E. Denney and Hugh McLeod, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the by-laws of such corporation and by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as 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.

.....C. B. Theits.....
C. B. Theits, Notary Public,
Ramsey County, Minnesota.
My Commission Expires
January 24, 1951.

(SEAL)

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 20th day of
JUNE A. D. 1949 at 11:00
o'clock A.M. and recorded in Vol.
42 of RAILROAD MORTGAGES
on page 340-347 incl.
Jos. R. Ronan
Secretary of State

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CONDITIONAL SALES AGREEMENT

by and between

AMERICAN LOCOMOTIVE COMPANY

and

KEWAUNEE, GREEN BAY & WESTERN RAILROAD COMPANY

DATED, JUNE 21st, 1949

a

n

d

ASSIGNMENT

by

AMERICAN LOCOMOTIVE COMPANY

to

KELLOGG-CITIZENS NATIONAL BANK

and

FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE

DATED, JUNE 21st, 1949

CONDITIONAL SALES AGREEMENT

THIS AGREEMENT made this 21st day of June, 1949, by and between AMERICAN LOCOMOTIVE COMPANY, a corporation of the State of New York, having an office and place of business at No. 30 Church Street, in the Borough of Manhattan, City of New York, (hereinafter called the Locomotive Company), Party of the First Part and KEWAUNEE, GREEN BAY & WESTERN RAILROAD COMPANY, a corporation of the State of Wisconsin, having its principal office and place of business at Green Bay, Wisconsin (hereinafter called Vendee), Party of the Second Part.

W I T N E S S E T H:

In consideration of the mutual promises of the parties hereto hereinafter set forth the parties hereto agree as follows:

1. The Locomotive Company will sell and deliver to the Vendee and the Vendee will buy from the Locomotive Company and accept delivery of and pay for as hereinafter provided the following described equipment hereinafter called the "locomotive", to wit:

One (1) 1500 H.P. Alco-GE road freight diesel electric locomotive, job order 3099-6, builders No. 76836, Kewaunee, Green Bay & Western Railroad Company's No. 503.

The Locomotive Company and Vendee have agreed upon a base price of $165,291.00 per locomotive for locomotive built to said specifications and delivered F.O.B. American Locomotive Company tracks at Schenectady, New York.

2. Delivery. Vendee acknowledges acceptance of said locomotive at Green Bay, Wisconsin, on June 21, 1949.

3. Payments. Vendee will pay upon receipt of said locomotive the sum of Ten Thousand Two Hundred Ninety one Dollars ($10,291.00), receipt whereof is hereby acknowledged. The balance to be paid in twenty-nine (29) equal monthly installments of Five Thousand One Hundred Sixty-seven Dollars ($5,167.00) and one final monthly installment of Five Thousand One Hundred Fifty-seven Dollars ($5,157.00), said payments to commence on the first day of December, 1949, and the final payment to be made on the first day of May, 1952, together with interest at the rate of two and one-half (2½%) per cent per annum on the unpaid balance, payable monthly commencing on June 1, 1949. The Vendee shall have the right on any principal installment date to prepay the unpaid principal installments in multiples of not less than the amount of one of said equal installments, except that the initial prepayment shall be, or shall include, said final installment. Said prepayments shall be applied on the unpaid principal installments in the reverse order of maturity.

4. Inspection. Inspection of said locomotive by the Vendee is hereby acknowledged and Vendee acknowledges that such locomotive conforms to the specifications in the contract.

5. Patents. The Locomotive Company agrees to indemnify and save Vendee harmless from any and all liability, damages, claims, suits, judgments and costs that may arise from the use of any patented article other than those specified by the Vendee that may be used in the construction of the locomotive. Vendee agrees to indemnify and save Locomotive Company harmless from any and all liability, damages, claims, suits, judgments and costs that

may arise from the use of any patented article specified or required by Vendee that may be used as a part of the locomotive.

6. Sales and Other Taxes. All payments by Vendee hereunder shall be free of expense to the Locomotive Company for collection or other charges and no deduction shall be made therefrom of the amount of any Federal, State or other taxes, assessments or governmental charges levied or imposed upon said locomotive or upon the selling, shipment, delivery or use thereof and Vendee hereby specifically agrees to pay to the Locomotive Company in addition to the above mentioned purchase price of the locomotive all sales taxes, gross income 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 locomotive and which the Locomotive Company may be legally required to pay to any State or Municipality or to the United States or other governments. All payments provided for in this contract shall be made by Vendee to the Locomotive Company in such currency of the United States of America as of the time of payment shall be legal tender for payment of public and private debts. Vendee shall also promptly pay all taxes, assessments and governmental charges which from time to time may be imposed upon the locomotive or the earnings arising therefrom or the operation thereof or upon the Locomotive Company by reason of its ownership thereof by any government of any country, state or political subdivision thereof in which the locomotive may be located or which shall have jurisdiction over the locomotive and the Vendee agrees at all times to keep the locomotive free and clear of all

tax liens and encumbrances. Provided, however, that Vendee shall not be required to pay any tax, assessments or other governmental charge the validity of which Vendee shall contest in good faith and by appropriate legal proceedings, until such contest shall have been decided unless in the judgment of the Locomotive Company its rights and interests in the locomotive may be materially endangered by such delay.

7. Title to the Locomotive. The Locomotive Company retains legal title to said locomotive until Vendee shall have made all the payments and shall have performed all of the covenants in this contract provided to be made, kept or performed by Vendee notwithstanding the delivery of locomotive to and the possession and use thereof by the Vendee as herein provided. Any and all replacements of parts to the locomotive or additional equipment or facilities installed thereon or therein shall constitute accessions to the locomotive, the title to which shall be immediately vested in the Locomotive Company and shall be subject to all the terms, reservations and conditions of this contract. When Vendee shall have paid in full the entire purchase price for said locomotive with the interest thereon and all other payments herein provided to be made by the Vendee with respect thereto title to said locomotive shall pass to Vendee without further transfer or act on the part of the Locomotive Company, but the Locomotive Company or its assignee will, if requested by the Vendee so to do, execute and deliver to Vendee a Bill of Sale covering the locomotive when the full purchase

price with interest and other payments as aforesaid which have been fully paid and such instrument of satisfaction or release as may be necessary or appropriate for filing or recording in all jurisdictions in which this instrument is filed, registered or recorded.

8. Insurance. Vendee shall keep the locomotive covered by this contract insured at its own expense against damage or destruction by fire to the aggregate amount of not less than the unpaid balance of the purchase price of the locomotive at all times while this contract shall be in force. Vendee shall furnish evidence of such insurance satisfactory to the Locomotive Company. In case Vendee shall fail to keep such locomotive so insured or to furnish evidence of such insurance satisfactory to the Locomotive Company, Locomotive Company may itself insure such locomotive and in this event Vendee shall be obligated to repay to the Locomotive Company the amount of premiums paid therefor with interest thereon at the rate of five (5) per cent per annum from the date of such payment until repaid.

Said policies shall provide by suitable riders or endorsements that all payments for loss on said locomotive covered by this contract shall be made to the Locomotive Company as owner as its interest may appear and for the account of whom it may concern.

Any moneys collected or received by Vendee from any company or companies issuing such policies, as the result of loss covered

by said insurance or received from another railroad company on account of said locomotive being damaged or destroyed by accident or other casualty on the lines of such other railroad (not in excess however of the balance due for such locomotive and provided such locomotive shall not already have been completely repaired or properly replaced) shall be immediately remitted to the Locomotive Company to be held by the Locomotive Company for the account of the Vendee pending repair or replacement of such locomotive by the Vendee. Any such moneys remitted to the Locomotive Company shall be paid over to the Vendee in reimbursement of the costs of repair or replacement of such locomotive damaged or destroyed by fire or by accident upon such proof of repair or replacement.

Vendee shall keep the locomotive in good order and proper running repair and in case of damage by fire or accident will promptly repair the locomotive so damaged and restore it to good running order or in case the locomotive be damaged beyond repair or destroyed Vendee shall promptly pay the Locomotive Company an amount equal to the full unpaid balance of the purchase price remaining to be paid on such locomotive (any payment already received by the Locomotive Company as insurance or from another railroad company as compensation for such damage or loss to be first credited toward the payment of such balance) and such amount will be credited by Locomotive Company toward payment in reverse order of the latest installment payment or payments to be made by Vendee hereunder.

Within a reasonable time after receiving advice of substantial damage to or destruction of such locomotive Vendee will give the Locomotive Company written notice thereof with full particulars of the extent of the loss or damage incurred. Any failure on the part of the Vendee to repair or replace such locomotive with reasonable promptness or to pay for the destroyed locomotive shall entitle the Locomotive Company to declare a default hereunder and take such action as is authorized to be taken by the Locomotive Company in case of a default by the Vendee in making payment for said locomotive as herein provided.

9. Marking of Locomotive. There will be fastened upon said locomotive a metal plate bearing in letters not less than one (1) inch high the word "owner" preceded by the name of the Locomotive Company or if the Locomotive Company's interest in said locomotive shall have theretofore been assigned the name of such assignee. In case during the continuance of this contract such plates or marks shall be removed, defaced or destroyed Vendee shall immediately at its own cost cause the same to be restored or replaced.

10. Assignment by the Locomotive Company. All or any of the rights of the Locomotive Company under this contract including the right to receive the payments herein provided to be made by the Vendee may be assigned by the Locomotive Company and reassigned by any assignee at any time and from time to time, provided, however, that no such assignment shall subject any

assignee to or relieve American Locomotive Company or the successor or successors to said Locomotive Company from any obligations of said American Locomotive Company with respect to any duty, obligation or liability under this agreement except the duty to execute necessary and proper instruments of transfer as and when the Vendee shall be entitled thereto pursuant to the provisions of Section 7 hereof and the duty to pay over to the Vendee or credit on the purchase price moneys or cash remitted or deposited by the Vendee as provided in Section 8 hereof.

In the event of any such assignment the assignor shall give written notice to Vendee together with the counterpart or copy of such assignment stating the identity and post office address of the assignee and such assignee shall by virtue of such assignment acquire all of the Locomotive Company's right, title and interest in and to the locomotive and each and every part thereof subject only to such reservations as may be contained in such assignment. From and after receipt by Vendee of a notification of any such assignment all payments thereafter to be made by the Vendee hereunder shall to the extent so assigned be made to the assignee. In the event that this contract is assigned by the Locomotive Company or reassigned by any assignee as herein provided the rights of such assignee to the entire unpaid purchase price or such part thereof as may be assigned and interest thereon as well as any other rights as may be so assigned hereunder shall not be subject to any defense, set off, counterclaim or recoupment

whatsoever arising out of any breach of any obligation of the American Locomotive Company or the successor or successors of it in respect of the locomotive manufactured or the delivery thereof or in respect of any indemnity herein contained and shall not be subject to any defense, set off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to Vendee by the American Locomotive Company or its successor or successors. Any and all such obligations, howsoever arising shall be and remain enforceable by Vendee against and only against the American Locomotive Company and its successor or successors and shall not be enforceable against any party or parties in whom title to the locomotive or rights of the Locomotive Company hereunder shall vest by reason of any sale, assignment or transfer or successive sales, assignments or transfers.

The term "Locomotive Company" whenever used in this contract means before any assignment of all or any rights of Locomotive Company hereunder as hereinbefore provided in this section, American Locomotive Company, 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 that are retained and excluded from such assignment and the term "American Locomotive Company" whenever used in this contract

means both before and after any such assignment the party hereto of the first part and any successor or successors for the time being to its business.

11. Guarantee. The Locomotive Company guarantees to repair at their works or to deliver to the Vendee at ~~their~~ the Locomotive Company's works a new part to replace any part of said locomotive that may fail under normal service either within one (1) year after shipment from the Locomotive Company or prior to completion of the first 100,000 miles of service, whichever shall occur first, because of the faulty work done or defective materials made by the Locomotive Company provided that the Locomotive Company is notified of the fault or defect within a reasonable time after discovery and is afforded an opportunity for verification of said faulty workmanship or defective materials. The Locomotive Company shall not be liable for any fault or defect in said locomotive except as herein provided.

12. Default by Vendee. In case the Vendee (a) shall make default in the payment of the purchase price of the locomotive herein provided or (b) shall make or suffer to be made any unauthorized assignment or transfer of its right or interest in the locomotive or any part thereof or any unauthorized sublease thereof or shall cause or permit said locomotive to be pledged or held for any debt or obligation owing by Vendee or in any manner encumber or except as herein authorized shall part with the possession of the locomotive or (c) shall fail or refuse for more than thirty (30) days after the Locomotive Company shall have demanded in writing the performance thereof, to comply with any

other of the terms and covenants of this agreement to be kept and performed by the Vendee or to make provision satisfactory to the Locomotive Company for such compliance:

Then in such case (in this agreement sometimes called events of default) the Locomotive Company at its option may, by notice in writing delivered to the Vendee, declare to be due and payable forthwith the unpaid balance of the purchase price of the locomotive and thereupon the entire amount of such unpaid purchase price shall become and be due and payable immediately without further demand.

13. Remedies in Case of Default. Vendee covenants that in case of the happening of any such event of default Locomotive Company may take possession of said locomotive in accordance with Chapter 122 Wisconsin Statutes 1947 known as the Uniform Conditional Sales Act.

The assignment of this contract or the sale of said locomotive or the Locomotive Company's consent or the filing by the Vendee or by the creditors of the Vendee of any petition for reorganization or debt adjustment affecting the obligations of the Vendee under this contract under Section 77B of the Bankruptcy Act or under any amendment or revision thereof or under any other provision of the Bankruptcy Act as now or hereafter enacted or any voluntary assignment or transfer of the Vendee's interest in and under this contract 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 receivers or trustees shall within thirty (30) days from the date of his or their appointment adopt this contract pursuant to due authority of the Court of his or their appointment) shall be deemed a breach of this contract and a default hereunder; whereupon Locomotive Company may elect to declare the unpaid balance of the purchase price immediately due and payable as hereinabove provided and may thereupon forthwith retake possession of the locomotive in accordance with Chapter 122 Wisconsin Statutes 1947 known as the Uniform Conditional Sales Act.

14. Notice. Whenever provision is made in this contract for any notice or demand to or upon the Vendee the same may be given by registered United States mail directed to the Vendee at its office or place of business in the City of Green Bay, Wisconsin and return registered receipt 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.

15. Recording. Vendee shall cause this contract to be filed, registered and recorded wherever required for proper protection to the satisfaction of counsel for the Locomotive Company. Vendee shall also pay all costs, charges and expenses

incident to the printing, filing, registering and recording of this contract and any instruments supplemental hereto or amendatory hereof referred to and of the first assignment or instrument of transfer between the Locomotive Company and its immediate assignee.

16. Payment of Expenses. Vendee shall pay all costs, charges and expenses incident to the preparation, execution and acknowledgment of this contract and of the first assignment by the Locomotive Company of title to the locomotive and all such costs, charges and expenses in connection with any instrument supplemental hereto or amendatory hereof and of any declaration of the payment in full of the purchase money due hereunder.

17. Counterparts. This contract may be simultaneously executed in 4 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. Modification of Agreement. This contract of conditional sales together with the specifications hereinbefore referred to, constitute the entire contract between the Vendee and the Locomotive Company with respect to the construction, delivery and sale of the locomotive herein referred to. No variation or modification of this contract and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by the duly authorized officers of Vendee and the Locomotive Company.

19. Possession and Use by Vendee. So long as Vendee shall not be in default under this contract it shall be entitled to the possession of the locomotive and shall have the full right of use thereof but subject at all times to all terms and conditions of this contract.

20. Law Governing. The terms of this contract and all rights and obligations hereunder shall be governed by the laws of the State of Wisconsin.

IN WITNESS WHEREOF, the Locomotive Company and Vendee, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names and their respective corporate seals to be hereto affixed, duly attested as of the day and year first above written.

AMERICAN LOCOMOTIVE COMPANY

By W E Corrigan
Vice President

ATTEST: J P DeLaney
Asst. Secretary

Signed, sealed and delivered in the presence of:

F C Lahm

E P Schwartz

KEWAUNEE, GREEN BAY & WESTERN RAILROAD COMPANY

BY ____________
President

ATTEST: W. W. Cox
Secretary

Signed, sealed and delivered in the presence of:

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

Personally came before me this 21st day of June 1949, W E Corrigan Vice President and J P DeLaney Asst Secretary of the above named corporation, American Locomotive Company, to me known to be the persons who executed the foregoing instrument and to me known to be such Vice President and Asst Secretary of said corporation, and acknowledged that they executed the foregoing instrument as the deed of said corporation by its authority.

Hazel Wiser
Notary Public, ~~New York~~ Schenectady County, New York
My Commission Expires: March 30, 1951

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

On this 21st day of June 1949, before me personally came W E Corrigan to me known, who, being by me duly sworn, did depose and say that he resides in ~~New York City~~ Schenectady, New York; that he is the Vice President of the American Locomotive Company, a corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

Hazel Wiser
Notary Public, ~~New York~~ Schenectady County, New York
My Commission Expires: March 30, 1951

STATE OF WISCONSIN)
BROWN COUNTY) SS.

On the 21st day of June, 1949 before me personally came H. E. McGee, to me known, who, being by me duly sworn, did depose and say that he resides in Green Bay, Wisconsin; that he is the president of Kewaunee, Green Bay & Western Railroad Company, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

F J Renard
Notary Public, Brown County, Wis.
My Commission Expires:
NOTARY PUBLIC, BROWN COUNTY
My Commission Expires Nov. 27, 1949

STATE OF WISCONSIN)
COUNTY OF BROWN) SS.

Personally came before me this 21st day of June, 1949, H. E. McGee, President of the above named corporation, Kewaunee, Green Bay & Western Railroad Company, to me known to be such President of said corporation and acknowledged that he executed the foregoing instrument as such officer, as the deed of said corporation by its authority.

F J Renard
Notary Public, Brown County, Wis.
My Commission Expires:
NOTARY PUBLIC, BROWN COUNTY
My Commission Expires Nov. 27, 1949

STATE OF NEw YORK }
COUNTY OF NEW YORK } SS.

Personally came before me this 21st day of June, 1949, Walton W. Cox, Secretary of the above named corporation, Kewaunee, Green Bay & Western Railroad Company, to me known to be such secretary of said corporation and acknowledged that he executed the foregoing instrument as such off icer, as the deed of said corporation by its authority.

Melvin G. Ott

Notary Public, New York County, New York
My Commission Expires:

MELVIN G. OTT
Notary Public, State of New York
No. 03-0700800
Qualified in Bronx County
Cert. filed in Bronx, N.Y. & Kings County
Kings County Ctf. No. 6
Commission Expires March 30, 1951

AGREEMENT AND ASSIGNMENT dated as of the 21st day of June, 1949, between AMERICAN LOCOMOTIVE COMPANY, a New York corporation having an office and place of business at No. 30 Church Street, in the Borough of Manhattan, City of New York (hereinafter called the "Locomotive Company") and KELLOGG-CITIZENS NATIONAL BANK, of Green Bay, Wisconsin, and FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE, of Milwaukee, Wisconsin, (hereinafter called respectively "Kellogg" and "First Wisconsin", and sometimes collectively called the "Banks") as their interests may appear.

WHEREAS, the Locomotive Company and the Kewaunee, Green Bay & Western Railroad Company, a corporation of the State of Wisconsin, (said railroad company being hereinafter called "Vendee") have entered into a conditional sales agreement dated as of the 21st day of June, 1949, (hereinafter called the "conditional sales agreement", a true copy of which agreement is annexed hereto) covering the sale and delivery on the conditions therein set forth by the Locomotive Company and the purchase by the Vendee of one (1) 1500 H.P. Alco-GE road freight Diesel electric locomotive, all as more particularly described therein, for an aggregate purchase price of $165,291.00 of which the Vendee is to pay the Locomotive Company upon receipt and acceptance of said locomotive the sum of $10,291.00 as an initial cash payment, said acceptance and delivery of said locomotive and payment of said $10,291.00 being hereby receipted and acknowledged, and the additional amount under such terms and conditions as provided in the conditional sales agreement.

NOW, THEREFORE, this Agreement and Assignment witnesseth, that in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Banks to the Locomotive Company, the receipt of which is hereby acknowledged, as well as the mutual covenants herein contained, the Locomotive Company hereby sells, assigns, transfers and sets over unto the Banks, their successors and assigns, all right, title and interest of the Locomotive Company under the conditional sales agreement (except the right to receive the cash payment of $10,291.00 on the execution of said conditional sales agreement) and any and all amounts which may be or become due and owing by the Vendee to the Locomotive Company under the conditional sales agreement on account of the unpaid portion of the purchase price of said locomotive and any other sums becoming due under the conditional sales agreement (excluding the aforesaid down payment of $10,291.00) together with all the Locomotive Company's rights, powers, privileges and remedies under the conditional sales agreement (without any recourse however against the Locomotive Company for or on account of the failure of the Vendee to make any of the payments provided for or otherwise to comply with any other provisions of the conditional sales agreement). Provided, however, that this Assignment shall not subject the Banks to or transfer or pass, or in any way affect or modify the liability of the Locomotive Company or of any successor or successors in interest in respect of its obligations under said conditional sales agreement contained in Section 5 of said conditional sales agreement. It being understood and agreed that notwithstanding this assignment or any subsequent assignment pursuant to Section 6 hereof, all obligations of the Locomotive Company to the Vendee in respect to the locomotive shall remain enforceable by Vendee, its successors or assigns, against and only against the Locomotive Company, its successors or assigns. In furtherance of the foregoing assignment and transfer, Locomotive Company hereby authorizes and empowers each of the Banks in its own name or in the name of its nominee to ask, demand, sue for, collect, receive and enforce payment of any and all sums to which it is or may become entitled under this assignment and to require compliance by the Vendee with all covenants and agreements to be performed or complied with by Vendee under the conditional sales agreement (including the right of each of said Banks to declare a default by the Vendee) but without expense and liability by the Locomotive Company and for the sole benefit of each of said Banks. Kellogg shall have the right to receive nine thirty-firsts (9/31) and First Wisconsin to receive twenty-two thirty-firsts (22/31) of any and all sums to which the Banks are or may become entitled under this assignment, provided, however, that until such time as either of said Banks shall declare a default by the Vendee, such sums shall be

paid to Kellogg, and Kellogg shall remit to First Wisconsin its aforesaid fraction of such sums.

The Locomotive Company covenants and agrees that it has delivered the locomotive to the Vendee free of all claims, liens and encumbrances and in accordance with the provisions of the conditional sales agreement and notwithstanding this assignment it will perform and fully comply with each and all the covenants and conditions of the conditional sales agreement set forth to be performed and complied with by the Locomotive Company. Locomotive Company further covenants and agrees that it has good and lawful right to sell the locomotive as aforesaid and that it will warrant and defend the same against the demands of all persons whomsoever based on claims originating prior to the delivery of the locomotive by the Locomotive Company to the Vendee. All subject, however, to the provisions of the conditional sales agreement and the rights of the Vendee hereunder.

The rights of each of the Banks to its fraction of the unpaid portion of the purchase price of the locomotive and interest thereon, as well as any other rights which have been assigned hereunder shall not be subject to any defense, set off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Locomotive Company or its successors in respect to the locomotive or in respect of any obligation contained in Section 5 of the conditional sales agreement and shall not be subject to any defense, set off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to Vendee by the Locomotive Company or its successor. Any and all such obligations howsoever arising shall be and remain enforceable by Vendee against and only against the Locomotive Company and its successor or successors and shall not be enforceable against the Banks or any other party or parties in whom title to the locomotive or the rights under the conditional sales agreement hereby assigned to Banks shall vest by reason of any further sale, assignment or transfer. Locomotive Company agrees to indemnify and save harmless Banks against any and all claims, suits, actions or other proceedings and against all expenses incurred and judgments entered in or as the result of such actions arising in any way out of the alleged infringement of patents covering the locomotive or any part or appliance thereof, excepting those patents covering devices and specialties designated by Vendee to be used by the Locomotive Company in the building of such locomotive, and which are not manufactured by the Locomotive Company.

It is mutually agreed that each of the Banks may assign its rights under the conditional sales agreement.

In the event of any such assignment any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the assignees hereunder.

The Locomotive Company hereby:

(a) Represents and warrants to the Banks, their successors and assigns that the conditional sales agreement was lawfully executed for valid consideration.

(b) Covenants and agrees that it will from time to time and at all times at the request of either of the Banks or their successors or assigns make, execute and deliver all such further instruments of assignment, transfer and assurance and do further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Banks or intended so to be.

(c) Represents and warrants to the Banks that there is due and owing on the date of this assignment the sum of One Hundred Fifty-five Thousand Dollars ($155,000.00 as principal on the conditional sales agreement and that the interest has been paid up to the _____ day of _____

This Agreement and Assignment may be simultaneously executed in counterparts, each of which so executed shall be numbered consecutively and be deemed to be an original and such counterparts together shall constitute but one and the same instrument. Banks agree to deliver one such counterpart or a certified copy thereof to Vendee.

The terms of this Agreement and Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Wisconsin.

IN WITNESS WHEREOF, Locomotive Company and the Banks have caused this instrument to be executed 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.

AMERICAN LOCOMOTIVE COMPANY

BY _____
Vice President

(CORPORATE SEAL)

ATTEST:

_____
Asst. Secretary

Signed, sealed and delivered
in the presence of:

_____

_____

(CORPORATE SEAL)

ATTEST:

KELLOGG-CITIZENS NATIONAL BANK

BY _____

Pres.

(CORPORATE SEAL)

ATTEST:

FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE

BY _____

(CORPORATE SEAL)

ATTEST:

ACCEPTED:

KEWAUNEE, GREEN BAY & WESTERN RAILROAD COMPANY

BY _____

(CORPORATE SEAL)

ATTEST:

Secretary

State of Wisconsin
DEPARTMENT OF STATE
Received this ____
day of ____ A. D. 19__
at ____ o'clock ____ M.
and recorded in Book ____
of ____ on page ____

CONDITIONAL SALES AGREEMENT

by and between

AMERICAN LOCOMOTIVE COMPANY

and

GREEN BAY AND WESTERN RAILROAD COMPANY

DATED, JUNE 21st, 1949

ASSIGNED

to

KELLOGG-CITIZENS NATIONAL BANK

and

FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE

DATED, JUNE 21st, 1949

CONDITIONAL SALES AGREEMENT

THIS AGREEMENT made this 21st day of June, 1949, by and between AMERICAN LOCOMOTIVE COMPANY, a corporation of the State of New York, having an office and place of business at No. 30 Church Street, in the Borough of Manhattan, City of New York, (hereinafter called the Locomotive Company), Party of the First Part and GREEN BAY AND WESTERN RAILROAD COMPANY, a corporation of the State of Wisconsin, having its principal office and place of business at Green Bay, Wisconsin, (hereinafter called Vendee), Party of the Second Part.

W I T N E S S E T H:

In consideration of the mutual promises of the parties hereto hereinafter set forth the parties hereto agree as follows:

1. The Locomotive Company will sell and deliver to the Vendee and the Vendee will buy from the Locomotive Company and accept delivery of and pay for as hereinafter provided the following described equipment hereinafter called the "locomotive", to wit:

One (1) 1500 H.P. Alco-GE road freight diesel electric locomotive, job order 3099-7, builders No. 76837, Green Bay and Western Railroad Company's No. 307.

The Locomotive Company and Vendee have agreed upon a base price of $165,291.00 per locomotive for locomotive built to said specifications and delivered F.O.B. American Locomotive Company tracks at Schenectady, New York.

2. Delivery. Vendee acknowledges acceptance of said locomotive at Green Bay, Wisconsin on June 21, 1949.

3. Payments. Vendee will pay upon receipt of said locomotive the sum of Ten Thousand Two Hundred Ninety one Dollars ($10,291.00), receipt whereof is hereby acknowledged. The balance to be paid in twenty-nine (29) equal monthly installments of Five Thousand One Hundred Sixty-seven Dollars ($5,167.00) and one final monthly installment of Five Thousand One Hundred Fifty-seven Dollars ($5,157.00), said payments to commence on the first day of December, 1949, and the final payment to be made on the first day of May, 1952, together with interest at the rate of two and one-half (2½%) per cent per annum on the unpaid balance, payable monthly commencing on June 1, 1949. The Vendee shall have the right on any principal installment date to prepay the unpaid principal installments in multiples of not less than the amount of one of said equal installments, except that the initial prepayment shall be, or shall include, said final installment. Said prepayments shall be applied on the unpaid principal installments in the reverse order of maturity.

4. Inspection. Inspection of said locomotive by the Vendee is hereby acknowledged and Vendee acknowledges that such locomotive conforms to the specifications in the contract.

5. Patents. The Locomotive Company agrees to indemnify and save Vendee harmless from any and all liability, damages, claims, suits, judgments and costs that may arise from the use of any patented article other than those specified by the Vendee that may be used in the construction of the locomotive. Vendee agrees to indemnify and save Locomotive Company harmless from any and all liability, damages, claims, suits, judgments and costs that

may arise from the use of any patented article specified or required by Vendee that may be used as a part of the locomotive.

6. [illegible] and Other Taxes. All payments by Vendee hereunder shall be free of expense to the Locomotive Company for collection or other charges and no deduction shall be made therefrom of the amount of any Federal, State or other taxes, assessments or governmental charges levied or imposed upon said locomotive or upon the selling, shipment, delivery or use thereof and Vendee hereby specifically agrees to pay to the Locomotive Company in addition to the above mentioned purchase price of the locomotive all excise taxes, gross income taxes or other taxes or charges which may be assessed, levied or imposed therefor with respect to the sale or delivery to or use by the Vendee of said locomotive and which the Locomotive Company may be lawfully required to pay to any State or Municipality or to the United States or other governments. All payments provided for in this contract shall be made to the Locomotive Company in such currency of the United States of America as of the time of payment shall be legal tender for the payment of public and private debts. Vendee will promptly pay all taxes, assessments and governmental charges from time to time [illegible] upon the [illegible] damages arising therefrom or the operation [illegible] Locomotive Company by reason of its ownership [illegible] payment of any [illegible] state or political [illegible] in which the locomotive may be licensed or [illegible] jurisdiction over the locomotive and the Vendee [illegible] as they [illegible] free and clear of all

tax liens and encumbrances. Provided, however, that Vendee shall not be required to pay any tax, assessments or other governmental charge the validity of which Vendee shall contest in good faith and by appropriate legal proceedings, until such contest shall have been decided unless in the judgment of the Locomotive Company its rights and interests in the locomotive may be materially endangered by such delay.

7. Title to the Locomotive. The Locomotive Company retains legal title to said locomotive until Vendee shall have made all the payments and shall have performed all of the covenants in this contract provided to be made, kept or performed by Vendee notwithstanding the delivery of locomotive to and the possession and use thereof by the Vendee as herein provided. Any and all replacements of parts to the locomotive or additional equipment or facilities installed thereon or therein shall constitute accessions to the locomotive, the title to which shall be immediately vested in the Locomotive Company and shall be subject to all the terms, reservations and conditions of this contract. When Vendee shall have paid in full the entire purchase price for said locomotive with the interest thereon and all other payments herein provided to be made by the Vendee with respect thereto title to said locomotive shall pass to Vendee without further transfer or act on the part of the Locomotive Company, but the Locomotive Company or its assignee will, if requested by the Vendee so to do, execute and deliver to Vendee a Bill of Sale covering the locomotive when the full purchase

price with interest and other payments as aforesaid which have been fully paid and such instrument of satisfaction or release as may be necessary or appropriate for filing or recording in all jurisdictions in which this instrument is filed, registered or recorded.

8. Insurance. Vendee shall keep the locomotive covered by this contract insured at its own expense against damage or destruction by fire to the aggregate amount of not less than the unpaid balance of the purchase price of the locomotive at all times while this contract shall be in force. Vendee shall furnish evidence of such insurance satisfactory to the Locomotive Company. In case Vendee shall fail to keep such locomotive so insured or to furnish evidence of such insurance satisfactory to the Locomotive Company, Locomotive Company may itself insure such locomotive and in this event Vendee shall be obligated to repay to the Locomotive Company the amount of premiums paid therefor with interest thereon at the rate of five (5) per cent per annum from the date of such payment until repaid.

Said policies shall provide by suitable riders or endorsements that all payments for loss on said locomotive covered by this contract shall be made to the Locomotive Company as owner as its interest may appear and for the account of whom it may concern.

Any moneys collected or received by Vendee from any company or companies issuing such policies, as the result of loss covered

by said insurance or received from another railroad company on account of said locomotive being damaged or destroyed by accident or other casualty on the lines of such other railroad (not in excess however of the balance due for such locomotive and provided such locomotive shall not already have been completely repaired or properly replaced) shall be immediately remitted to the Locomotive Company to be held by the Locomotive Company for the account of the Vendee pending repair or replacement of such locomotive by the Vendee. Any such moneys remitted to the Locomotive Company shall be paid over to the Vendee in reimbursement of the costs of repair or replacement of such locomotive damaged or destroyed by fire or by accident upon such proof of repair or replacement.

Vendee shall keep the locomotive in good order and proper running repair and in case of damage by fire or accident will promptly repair the locomotive so damaged and restore it to good running order or in case the locomotive be damaged beyond repair or destroyed Vendee shall promptly pay the Locomotive Company an amount equal to the full unpaid balance of the purchase price remaining to be paid on such locomotive (any payment already received by the Locomotive Company as insurance or from another railroad company as compensation for such damage or loss to be first credited toward the payment of such balance) and such amount will be credited by Locomotive Company toward payment in reverse order of the latest installment payment or payments to be made by Vendee hereunder.

Within a reasonable time after receiving advice of substantial damage to or destruction of such locomotive Vendee will give the Locomotive Company written notice thereof with full particulars of the extent of the loss or damage incurred. Any failure on the part of the Vendee to repair or replace such locomotive with reasonable promptness or to pay for the destroyed locomotive shall entitle the Locomotive Company to declare a default hereunder and take such action as is authorized to be taken by the Locomotive Company in case of a default by the Vendee in making payment for said locomotive as herein provided.

9. Marking of Locomotive. There will be fastened upon said locomotive a metal plate bearing in letters not less than one (1) inch high the word "owner" preceded by the name of the Locomotive Company or if the Locomotive Company's interest in said locomotive shall have theretofore been assigned the name of such assignee. During the continuance of this contract such plates or either of them, if removed, defaced or destroyed Vendee shall immediately at its own cost cause the same to be restored or replaced.

10. Assignment by the Locomotive Company. All or any of the rights of the Locomotive Company under this contract including the right to receive the payments herein provided to be made by Vendee may be assigned by the Locomotive Company and re-assigned at any time and from time to time, but no such assignment shall subject any

assignee to or relieve American Locomotive Company or the successor or successors to said Locomotive Company from any obligations of said American Locomotive Company with respect to any duty, obligation or liability under this agreement except the duty to execute necessary and proper instruments of transfer as and when the Vendee shall be entitled thereto pursuant to the provisions of Section 7 hereof and the duty to pay over to the Vendee or credit on the purchase price moneys or cash remitted or deposited by the Vendee as provided in Section 8 hereof.

In the event of any such assignment the assignor shall give written notice to Vendee together with the counterpart or copy of such assignment stating the identity and post office address of the assignee and such assignee shall by virtue of such assignment acquire all of the Locomotive Company's right, title and interest in and to the locomotive and each and every part thereof subject only to such reservations as may be contained in such assignment. From and after receipt by Vendee of a notification of any such assignment all payments thereafter to be made by the Vendee hereunder shall to the extent so assigned be made to the assignee. In the event that this contract is assigned by the Locomotive Company or reassigned by any assignee as herein provided the rights of such assignee to the entire unpaid purchase price or such part thereof as may be assigned and interest thereon as well as any other rights as may be so assigned hereunder shall not be subject to any defense, set off, counterclaim or recoupment

whatsoever arising out of any breach of any obligation of the American Locomotive Company or the successor or successors of it in respect of the locomotive manufactured or the delivery thereof or in respect of any indemnity herein contained and shall not be subject to any defense, set off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to Vendee by the American Locomotive Company or its successor or successors. Any and all such obligations, howsoever arising shall be and remain enforceable by Vendee against and only against the American Locomotive Company and its successor or successors and shall not be enforceable against any party or parties in whom title to the locomotive or rights of the Locomotive Company hereunder shall vest by reason of any sale, assignment or transfer, or successive sales, assignments or transfers.

The term "Locomotive Company" whenever used in this contract means before any assignment of all or any rights of Locomotive Company hereunder as hereinbefore provided in this section, American Locomotive Company, 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 that are retained and excluded from such assignment and the term "American Locomotive Company" whenever used in this contract

means both before and after any such assignment the party hereto of the first part and any successor or successors for the time being to its business.

11. Guarantee. The Locomotive Company guarantees to repair at their works or to deliver to the Vendee at the Locomotive Company's works a new part to replace any part of said locomotive that may fail under normal service either within one (1) year after shipment from the Locomotive Company or prior to completion of the first 100,000 miles of service, whichever shall occur first, because of the faulty work done or defective materials made by the Locomotive Company provided that the Locomotive Company is notified of the fault or defect within a reasonable time after discovery and is afforded an opportunity for verification of said faulty workmanship or defective materials. The Locomotive Company shall not be liable for any fault or defect in said locomotive except as herein provided.

12. Default by Vendee. In case the Vendee (a) shall make default in the payment of the purchase price of the locomotive herein provided or (b) shall make or suffer to be made any unauthorized assignment or transfer of its right or interest in the locomotive or any part thereof or any unauthorized sublease thereof or shall cause or permit said locomotive to be pledged or held for any debt or obligation owing by Vendee or in any manner encumber or except as herein authorized shall part with the possession of the locomotive or (c) shall fail or refuse for more than thirty (30) days after the Locomotive Company shall have demanded in writing the performance thereof, to comply with any

other of the terms and covenants of this agreement to be kept and performed by the Vendee or to make provision satisfactory to the Locomotive Company for such compliance:

Then in such case (in this agreement sometimes called events of default) the Locomotive Company at its option may, by notice in writing delivered to the Vendee, declare to be due and payable forthwith the unpaid balance of the purchase price of the locomotive and thereupon the entire amount of such unpaid purchase price shall become and be due and payable immediately without further demand.

13. Remedies in Case of Default. Vendee covenants that in case of the happening of any such event of default Locomotive Company may take possession of said locomotive in accordance with Chapter 122 Wisconsin Statutes 1947 known as the Uniform Conditional Sales Act.

The assignment of this contract or the sale of said locomotive without the Locomotive Company's consent, the filing by the Vendee or by the creditors of the Vendee of any petition for reorganization or debt adjustment affecting the obligations of the Vendee under this contract under Section 77 B of the Bankruptcy Act or under any amendment or revision thereof or under any other provision of the Bankruptcy Act as now or hereafter existing or any voluntary assignment or transfer of the Vendee's interest in and under this contract or any involuntary transfer of such interest in 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 receivers or trustees shall within thirty (30) days from the date of his or their appointment adopt this contract pursuant to due authority of the Court of his or their appointment) shall be deemed a breach of this contract and a default hereunder; whereupon Locomotive Company may elect to declare the unpaid balance of the purchase price immediately due and payable as hereinabove provided and may thereupon forthwith retake possession of the locomotive in accordance with Chapter 122 Wisconsin Statutes 1947 known as the Uniform Conditional Sales Act.

14. Notice. Whenever provision is made in this contract for any notice or demand to or upon the Vendee the same may be given by registered United States mail directed to the Vendee at its office or place of business in the City of Green Bay, Wisconsin and return registered receipt 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.

15. Recording. Vendee shall cause this contract to be filed, registered and recorded wherever required for proper protection to the satisfaction of counsel for the Locomotive Company. Vendee shall also pay all costs, charges and expenses

incident to the printing, filing, registering and recording of this contract and any instruments supplemental hereto or amendatory hereof referred to and of the first assignment or instrument of transfer between the Locomotive Company and its immediate assignee.

16. Payment of Expenses. Vendee shall pay all costs, charges and expenses incident to the preparation, execution and acknowledgment of this contract and of the first assignment by the Locomotive Company of title to the locomotive and all such costs, charges and expenses in connection with any instrument supplemental hereto or amendatory hereof and of any declaration of the payment in full of the purchase money due hereunder.

17. Counterparts. This contract may be simultaneously executed in 4 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. Modification of Agreement. This contract of conditional sale together with the specifications hereinbefore referred to, constitute the entire contract between the Vendee and the Locomotive Company with respect to the construction, delivery and sale of the locomotive herein referred to. No variation or modification of this contract and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by the duly authorized officers of Vendee and the Locomotive Company.

19. Possession and Use by Vendee. So long as Vendee shall not be in default under this contract it shall be entitled to the possession of the locomotive and shall have the full right of use thereof but subject at all times to all terms and conditions of this contract.

20. Law Governing. The terms of this contract and all rights and obligations hereunder shall be governed by the laws of the State of Wisconsin.

IN WITNESS WHEREOF, the Locomotive Company and Vendee, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names and their respective corporate seals to be hereto affixed, duly attested as of the day and year first above written.

AMERICAN LOCOMOTIVE COMPANY

BY W E Corrigan
Vice President

ATTEST:
J P DeLaney
Asst Secretary

Signed, sealed and delivered in the presence of:
F C Lahm
W P Schwake

GREEN BAY AND WESTERN RAILROAD COMPANY

BY _____
President

ATTEST:
H. W. Cox
Secretary

Signed, sealed and delivered in the presence of:

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

Personally came before me this 21st day of June 1949, W E Corrigan Vice President and J P DeLaney Asst Secretary of the above named corporation, American Locomotive Company, to me known to be the persons who executed the foregoing instrument and to me known to be such Vice President and Asst Secretary of said corporation, and acknowledged that they executed the foregoing instrument as the deed of said corporation by its authority.

Hazel Weiss
Notary Public, ~~New York~~ Schenectady County,
New York
My Commission Expires: March 30, 1951

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

On this 21st day of June 1949, before me personally came W E Corrigan to me known, who, being by me duly sworn, did depose and say that he resides in ~~New York City~~ Schenectady, New York; that he is the Vice President of the American Locomotive Company, a corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

Hazel Weiss
Notary Public, ~~New York~~ Schenectady County,
New York
My Commission Expires: March 30, 1951

STATE OF WISCONSIN)
BROWN COUNTY) SS.

On the 21st day of June, 1949 before me personally came H. E. McGee, to me known, who, being by me duly sworn, did depose and say that he resides in Green Bay, Wisconsin; that he is the president of Green Bay and Western Railroad Company, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

J J Renard
Notary Public, Brown County, Wis.
My Commission Expires:
NOTARY PUBLIC, BROWN COUNTY, WIS.
My Commission Expires Nov. 27, 1949

STATE OF WISCONSIN)
COUNTY OF BROWN) SS.

Personally came before me this 21st day of June, 1949, H. E. McGee, President of the above named corporation, Green Bay and Western Railroad Company, to me known to be such President of said corporation and acknowledged that he executed the foregoing instrument as such officer, as the deed of said corporation by its authority.

J J Renard
Notary Public, Brown County, Wis.
My Commission Expires:
NOTARY PUBLIC, BROWN COUNTY, WIS.
My Commission Expires Nov. 27, 1949

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

Personally came before me this 21st day of June, 1949, Walton W. Cox, Secretary of the above named corporation, Green Bay and Western Railroad Company, to me known to be such secretary of said Corporation and acknowledged that he executed the foregoing instrument as such officer, as the deed of said corporation by its authority.

Melvin G. Ott

Notary Public, New York County,
New York
My Commission Expires:

MELVIN G. OTT
Notary Public, State of New York
No. 03-2566200
Qualified in Bronx County
Certs. filed in Bronx, N.Y. & Kings Counties
Kings County Clerks No. 4
Commission Expires March 30, 1951

AGREEMENT AND ASSIGNMENT dated as of the 21st day of June, 1949, between AMERICAN LOCOMOTIVE COMPANY, a New York Corporation having an office and place of business at No. 30 Church Street, in the Borough of Manhattan, City of New York, (hereinafter called the "Locomotive Company") and KELLOGG-CITIZENS NATIONAL BANK, of Green Bay, Wisconsin, and FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE, of Milwaukee, Wisconsin, (hereinafter called respectively "Kellogg" and "First Wisconsin", and sometimes collectively called the "Banks") as their interests may appear.

WHEREAS, the Locomotive Company and the Green Bay and Western Railroad Company, a corporation of the State of Wisconsin, (said railroad company being hereinafter called "Vendee") have entered into a conditional sales agreement dated as of the 21st day of June, 1949, (hereinafter called the "conditional sales agreement", a true copy of which agreement is enclosed herewith) covering the sale and delivery on the conditions therein set forth by the Locomotive Company and the purchase by the Vendee of one (1) 1500 H.P. Alco-GE road freight diesel electric locomotive, all as more particularly described therein, for an aggregate purchase price of $165,291.00 of which the Vendee is to pay the Locomotive Company upon receipt and acceptance of said locomotive the sum of $10,291.00 as an initial cash payment, said acceptance and delivery of said locomotive and payment of said $10,291.00 being hereby recognized and acknowledged, and the additional amount under such terms and conditions as provided in the conditional sales agreement.

NOW, THEREFORE, this Agreement and Assignment witnesseth, that in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Banks to the Locomotive Company, the receipt of which is hereby acknowledged, as well as the mutual covenants herein contained, the Locomotive Company hereby sells, assigns, transfers and sets over unto the Banks, their successors and assigns, all right, title and interest of the Locomotive Company under the conditional sales agreement (except the right to receive the cash payment of $10,291.00 on the execution of said conditional sales agreement) and any and all amounts which may be or become due and owing by the Vendee to the Locomotive Company under the conditional sales agreement on account of the unpaid portion of the purchase price of said locomotive and any other sums becoming due under the conditional sales agreement (excluding the aforesaid down payment of $10,291.00) together with all the locomotive Company's rights, powers, privileges and remedies under the conditional sales agreement (without any recourse however against the Locomotive Company for or on account of the failure of the Vendee to make any of the payments provided for or otherwise to comply with any other provisions of the conditional sales agreement). Provided, however, that this Assignment shall not subject the Banks to or transfer or pass, or in any way affect or modify the liability of the Locomotive Company or of any successor or successors in interest in respect of its obligations under said conditional sales agreement contained in Section 5 of said conditional sales agreement. It being understood and agreed that notwithstanding this assignment or any subsequent assignment pursuant to Section 6 hereof, all obligations of the Locomotive Company to the Vendee in respect to the locomotive shall remain enforceable by Vendee, its successors or assigns, against and only against the Locomotive Company, its successors or assigns. In furtherance of the foregoing assignment and transfer, Locomotive Company hereby authorizes and empowers each of the Banks in its own name or in the name of its nominee to ask, demand, sue for, collect, receive and enforce payment of any and all sums to which it is or may become entitled under this assignment and to require compliance by the Vendee with all covenants and agreements to be performed or complied with by Vendee under the conditional sales agreement (including the right of each of said Banks to declare a default by the Vendee) but without expense and liability by the Locomotive Company and for the sole benefit of each of said Banks. Kellogg shall have the right to receive nine thirty-firsts (9/31) and First Wisconsin to receive twenty-two thirty-firsts (22/31) of any and all sums to which the Banks are or may become entitled under this assignment, provided, however, that until such time as either of said Banks shall declare a default by the Vendee, such sums shall be paid to Kellogg, and Kellogg shall remit to First Wisconsin its aforesaid fraction of such sums.

The Locomotive Company covenants and agrees that it has delivered the locomotive to the Vendee free of all claims, liens and encumbrances and in accordance with the provisions of the conditional sales agreement and notwithstanding this assignment it will perform and fully comply with each and all the covenants and conditions of the conditional sales agreement set forth to be performed and complied with by the Locomotive Company. Locomotive Company further covenants and agrees that it has good and lawful right to sell the locomotive as aforesaid and that it will warrant and defend the same against the demands of all persons whomsoever based on claims originating prior to the delivery of the locomotive by the Locomotive Company to the Vendee. All subject, however, to the provisions of the conditional sales agreement and the rights of the Vendee hereunder.

The rights of each of the Banks to its fraction of the unpaid portion of the purchase price of the locomotive and interest thereon, as well as any other rights which have been assigned hereunder shall not be subject to any defense, set off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Locomotive Company or its successors in respect to the locomotive or in respect of any obligation contained in Section 5 of the conditional sales agreement and shall not be subject to any defense, set off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to Vendee by the Locomotive Company or its successor. Any and all such obligations howsoever arising shall be and remain enforceable by Vendee against and only against the Locomotive Company and its successor or successors and shall not be enforceable against the Banks or any other party or parties in whom title to the locomotive or the rights under the conditional sales agreement hereby assigned to Banks shall vest by reason of any further sale, assignment or transfer. Locomotive Company agrees to indemnify and save harmless Banks against any and all claims, suits, actions or other proceedings and against all expenses incurred and judgments entered in or as the result of such actions arising in any way out of the alleged infringement of patents covering the locomotive or any part or appliance thereof, excepting those patents covering devices and specialties designated by Vendee to be used by the Locomotive Company in the building of such locomotive, and which are not manufactured by the Locomotive Company.

It is mutually agreed that each of the Banks may assign its rights under this conditional sales agreement.

In the event of any such assignment any such subsequent assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the assignors hereunder.

The Locomotive Company hereby:

(a) Represents and warrants to the Banks, their successors and assigns that the conditional sales agreement was lawfully executed for valid consideration.

(b) Covenants and agrees that it will from time to time and at all times at the request of either of the Banks or their successors or assigns make, execute and deliver all such further instruments of assignment, transfer and assurance and do further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Banks or intended so to be.

(c) Represents and warrants to the Banks that there is due and owing on the date of this assignment the sum of One Hundred Fifty-five Thousand ($155,000) Dollars as principal on the conditional sales agreement and that no interest has been paid.

This Agreement and Assignment may be simultaneously executed in counterparts, each of which so executed shall be numbered consecutively and be deemed to be an original and such counterparts together shall constitute but one and the same instrument. Banks agree to deliver one such counterpart or a certified copy thereof to Vendee.

The terms of this Agreement and Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Wisconsin.

IN WITNESS WHEREOF, Locomotive Company and the Banks have caused this instrument to be executed 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.

AMERICAN LOCOMOTIVE COMPANY

BY _____
Vice President

(CORPORATE SEAL)

ATTEST:

_____
Asst Secretary

Signed, sealed and delivered in the presence of:

_____

_____

FIRST CITIZENS NATIONAL BANK

(CORPORATE SEAL)

ATTEST:

FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE

BY

(CORPORATE SEAL)

ATTEST:

ACCEPTED:

GREEN BAY AND WESTERN RAILROAD COMPANY

BY

(CORPORATE SEAL)

ATTEST:

Secretary

State of Wisconsin } ss.

LEASE TO CERTAIN LAND IN DANE COUNTY, WISCONSIN

BY

ILLINOIS CENTRAL RAILROAD COMPANY, LESSOR

TO

SUB-ZERO FREEZER COMPANY, INC., LESSEE

DATED, AUGUST 1st, 1949

ADDENDUM ATTACHED TO AND MADE A PART OF LEASE NO. 18940 DATED AUGUST 1st, 1949, FROM ILLINOIS CENTRAL RAILROAD COMPANY, AS LESSOR, TO SUB-ZERO FREEZER COMPANY, INC., AS LESSEE, LEASING CERTAIN PROPERTY IN THE STATE OF WISCONSIN, DANE COUNTY, WISCONSIN.

It is further understood and agreed by and between the parties hereto as follows:

(1) All of the terms and provisions of this addendum are hereby incorporated in and made a part of the lease described in the caption hereof to the same extent as though incorporated and printed therein; and that if any of the terms and provisions of this addendum are in conflict or are inconsistent with any of the terms and provisions of said lease, the terms and provisions of this addendum shall govern.

(2) That all installations and buildings, including appurtenances thereto, and all fixtures, machinery and equipment, and all substitutions and additions thereto, heretofore or hereafter erected, constructed, placed or brought upon the demised premises by lessee or any prior lessee, irrespective of the manner in which the same may have been or may hereafter be affixed to the demised premises or to any building now or hereafter erected thereon shall be considered and are hereby declared to be personal property.

(3) Lessee is hereby granted the right and privilege to remove at any time any such property heretofore or hereafter erected, constructed, placed or brought upon the leased premises irrespective of the manner in which such property or improvements may be constructed or affixed to the demised premises. The right and privilege of lessee to so remove such property shall continue throughout the term of this lease and for a period of ninety (90) days after the termination or expiration of the lease, whether such expiration or termination be by lapse of time or otherwise, provided that lessee shall pay lessor for the use and occupation of lessor's premises during such 90-day period a sum equal to the rent stipulated in the lease. Lessee agrees that the acceptance of such sums by lessor shall not be construed as an extension of the lease. If lessee shall not have removed such property within ninety (90) days after the expiration or termination of this lease, lessor shall have the right to remove such property from its premises at the sole risk and expense of the lessee and lessee hereby agrees to reimburse lessor for any expense which it may incur in the removal of such property.

(4) The lessor hereby grants lessee the right and privilege to mortgage or assign lessee's interest in this lease to Reconstruction Finance Corporation, or both. It is agreed that such mortgage and assignment may contain provisions acceptable to Reconstruction Finance Corporation to the effect that so long as it has not entered into possession of the demised premises it shall not be liable for the performance of any of the covenants or agreements contained in the lease to be performed by lessee providing, however, that lessee shall remain obligated for the performance of all such agreements and covenants notwithstanding such assignment.

(5) The lessor agrees to give lessee and the Reconstruction Finance Corporation after receipt of notice that the leasehold has been mortgaged or assigned to it, sixty (60) days' written notice of any default under the lease, as a condition precedent to termination of the lease before taking any action for the purpose of terminating the same for a breach of any covenant, agreement or condition contained in the lease. Such notice shall specify the nature of the alleged default and if such default shall be cured either by lessee or Reconstruction Finance Corporation within said 60-day period, then and in that event the lessor shall not have the right to terminate the lease pursuant to such notice.

(6) The lessor shall not be permitted to terminate this lease and the tenancy hereby created except in case of the default of the lessee under this lease as hereinabove provided or in the event the demised premises are required by the lessor for railroad purposes, and upon such determination sixty (60) days' written notice of lessor's intention to terminate this lease shall be given to lessee.

(7) The lessee may execute and deliver to Reconstruction Finance Corporation a chattel mortgage or chattel mortgages covering all or any part of the installations, buildings, appurtenances, fixtures, machinery and equipment, and all substitutions and additions thereto, now or hereafter owned by lessee and now or hereafter erected, constructed, placed or brought upon the demised premises by lessee. Such mortgage instrument or instruments need not be submitted to or approved by lessor, and lessor and lessee need not enter into or execute any supplemental agreement or instrument in connection with or because of such mortgage or mortgages.

(8) Copies of all notices required or permitted to be served upon the lessee by the lessor, the Public Service Commission of Wisconsin or otherwise, pursuant to the terms and provisions of this lease, shall be sent to Reconstruction Finance Corporation at 208 South LaSalle Street, Chicago, Illinois.

(9) Lessee may terminate this lease at any time upon giving lessor sixty (60) days' written notice.

(ii) Title to the property covered by the railroad lease may be subject to possible tax liability and the railroad's mortgage indebtedness if any. Agency Counsel and borrower's counsel may base their opinions in respect to the railroads title upon the opinion of counsel for the railroad which may be based upon the records maintained by the real estate of land division of the railroad.

Dated at Chicago, Ill., August 1, 1949.

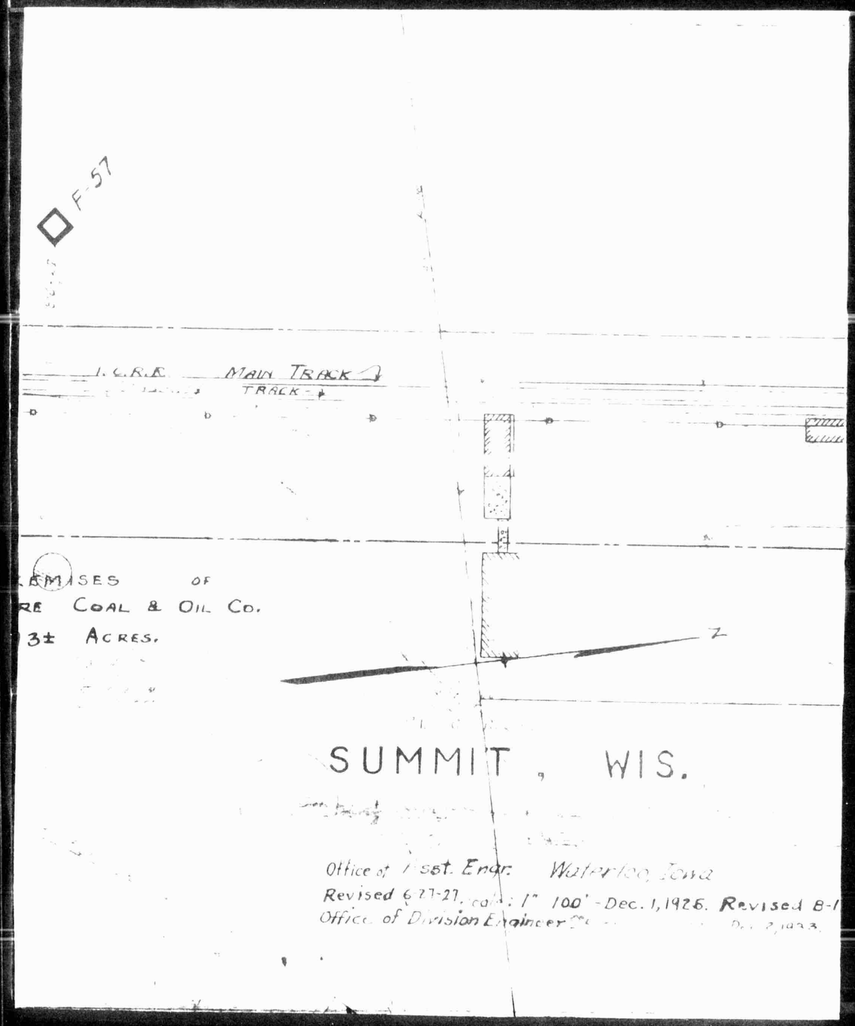
ILLINOIS CENTRAL RAILROAD COMPANY

By R. E. Bass
VICE PRESIDENT.

SUB ZERO FREEZER COMPANY, INC.

By W. A. Bahle
President.

Attest:
L. C. Bahle
Secretary.



This Lease, Made in duplicate this 1st day of August 19 49

by and between the **Illinois Central Railroad Company,** a corporation, party of the first part (hereinafter called the Lessor), and Sub-Zero Freezer Company, Inc.

having a principal office or place of business in Madison, in the County of Dane and State of Wisconsin, party or parties of the second part (hereinafter called the Lessee, words referring to the Lessee to be taken of such number and gender as shall be appropriate), WITNESSETH, that the Lessor, in consideration of the agreements of the Lessee herein contained, hath demised and leased, and doth by these presents demise and lease unto the Lessee, all those certain premises, situate, lying and being in Summit in the County of Dane State of Wisconsin described as follows, to-wit: Beginning at a point 1050 feet southerly from the intersection of the southerly line of an easterly and westerly public road and the centerline of lessor's main track as measured along said centerline and 22½ feet easterly therefrom as measured at right angles thereto; thence southerly parallel to said centerline 325 feet; thence easterly at right angles 107.5 feet to a point 18 feet westerly from Lessor's easterly wayland line as measured at right angles thereto; thence northerly parallel to said wayland line 325 feet; thence westerly at right angles 107.5 feet to point of beginning - Containing 34937 sq. ft.

Lessee shall pay upon presentation of a bill therefor all taxes assessed against the demised property.

This lease invalid if rider (addendum) signed by the parties and dated August 1, 1949 becomes detached.

to have and to hold the above described premises, with the appurtenances, unto the Lessee, from the 1st day of August 19 49, until the 31st day of July 19 59, unless sooner terminated as hereinafter provided. And the Lessee, in consideration of the premises, hereby agrees with the Lessor, to pay the Lessor, as rent for said demised premises, the sum of Fifty-four ($54.00) Dollars Tax Clause Dollars per annum, to be paid at the time and in the manner following, to-wit: in advance

And the Lessee further agrees with the Lessor, that the Lessee will ~~within~~ ______ from the date of this Lease ~~[illegible]~~ use and maintain a good, substantial Warehouse and unloading dock. on the above described premises. ~~of the dimensions, material and description following, that is to say:~~

The Lessee will not erect any building or structure or pile any material nearer than eight and one-half feet to the center of any railroad track on or near the premises, nor will it erect any addition to the building herein provided, nor erect any other building or structure without first obtaining consent in writing from Lessor.

It is further agreed by the Lessee, that the said leased premises shall be used and occupied exclusively as a site for a Warehouse and unloading dock

The Lessee further agrees that no signs or advertisements, except those of the Lessee's business, shall be displayed on the leased premises.

The Lessee further agrees, at its expense, to keep the premises free of vegetation and debris and in a neat and sanitary condition, and to conform to all municipal ordinances and state laws regarding sanitation, fire and matters of like nature, governing the maintenance and use of the said premises.

Elevators and other buildings containing inflammable or valuable material erected by the Lessee on above described premises shall be equipped with fire resisting roof, and whenever renewal shall be made of the roof of any elevator or other building containing inflammable or valuable material now on above described premises by the Lessee, such renewal shall also be made with fire resisting material; and where any building located on above described premises shall contain inflammable material, such as hay, straw, etc., all windows exposed to sparks and cinders from passing locomotives shall be protected by wire screen with mesh of such size as will exclude sparks and cinders.

The Lessee further agrees that at all times during the continuance of said tenancy it will exercise such care, and cause such precautions to be taken, as shall adequately protect the buildings and structures on said demised premises and their contents, and all property, of whatever description, situated on said premises, against all dangers to which they may be exposed from fire, by reason of the proximity of said premises to the railroad operated by the Lessor, and the movement or use of locomotive engines and cars upon its tracks—the risk of all loss, injury and damage by fire, however caused, and whether or not caused by the negligence of the Lessor, its agents or servants, being hereby assumed by the Lessee, who, in consideration of the leasing of said premises on the terms aforesaid, hereby agrees to indemnify and save harmless the Lessor from all liability for damage by fire, however the fire may originate, the risk of which is assumed as aforesaid.

The Lessee also agrees to indemnify and save the Lessor harmless from any liability, loss, injury or damage which the Lessor may incur or suffer, caused by fire which shall damage or destroy any car or cars or the contents of same while such car or cars shall be, move or remain on any track or tracks of the Lessor, provided such fire originates on said leased premises or is attributable to the occupancy thereof by the Lessee, and provided further that the said fire is not caused proximately by the negligence of the Lessor, its servants or agents.

The Lessee further agrees that it will release fully and hold and keep the Lessor harmless and will indemnify it from any and all liability or claim for damages on account of loss or injury to the property or person of the Lessee, its agents, servants, employes, licensees, tenants, lessees, patrons or the agents, servants or employes of such patrons, attributable to the operation of engines, cars or other equipment over and upon any side, spur, industry or other track connecting the said leased premises with the main line of the Lessor, or located on any part of the said leased premises.

The Lessee further agrees with the Lessor that it will transact the business for which said premises are leased in such a manner that neither the Lessor nor the public will be prejudiced by reason of unfair or negligent dealing by the Lessee in the transaction of the business connected with the premises aforesaid.

It is further agreed by the Lessee, not to underlet said premises, or any part thereof, or assign this Lease, without the written consent of the Lessor, first had and obtained thereto.

The Lessor shall be permitted to terminate this lease and the tenancy hereby created at any time by giving the Lessee sixty days notice of such intention.

If the rent above reserved, or any part thereof, shall be unpaid on the day when due, or if default shall be made by the Lessee in keeping or performing any of the covenants or agreements herein contained, then this Lease shall, at the election of the Lessor, be null and void and the term provided for herein shall be ended, and whenever or however ended the Lessor shall have the right (without being guilty of any manner of trespass or forcible entry or detainer), either with or without notice or demand, and either with or without process of law, to immediately take possession of said premises and any and every part thereof, and to remove therefrom the said Lessee and/or any person or persons occupying the said premises or any and every part thereof, and any and all effects that may then be on the said premises or any part thereof, using such force in removing the said Lessee, person or persons and effects as may be necessary in so doing, and to repossess and enjoy the said premises; and when the said terms shall be ended the Lessee hereby covenants and agrees to give up and surrender the said demised premises and buildings thereon erected peaceably to the Lessor and at once, on the ending of the term as aforesaid, without further demand or notice; thereupon all buildings and erections at that time being upon the land leased shall become the property of the Lessor; but nothing herein contained shall be held to prevent the Lessee from removing from the said leased premises at any time before the termination of this Lease all buildings or structures erected thereon by it.

This Lease shall be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties to this Lease have hereunto set their hands or caused the same to be signed by their authorised officers or agents, the day and year first above written.

Illinois Central Railroad Company,

By R. E. Barr VICE PRESIDENT

Recorded in Office of Chief Engineer.

______ 19__

By ______

Lessee Sign Here: Sub-Zero Freezer Company, Inc.

By: W. F. Bakke President

Lawrence ? Bakke Secretary

This lease supersedes and cancels lease No. 18940 dated Aug. 10, 1949 [illegible] Sub-Zero Freezer Company, Inc.

For value received the undersigned hereby transfers and assigns to ______ all right, title and interest in and to the within lease and the premises therein described.

______ 19__

The undersigned hereby accepts the within lease by assignment, and agrees to each and all of the covenants and conditions therein named, the same as if the lease was made direct by the Lessor, and further agrees that no further assignment of said lease or subletting of the premises therein described, or any part thereof, shall be made without the written consent of the Lessor.

______ 19__

Transfer approved:

ILLINOIS CENTRAL RAILROAD COMPANY,

By ______ Land and Tax Commissioner.

PLEASE KEEP THIS LEASE IN A SAFE PLACE

18940 LESSEE COPY

Illinois Central Railroad Company

Iowa Division

LEASE 18940

OF GROUND AT Summit

County of Dane

State of Wisconsin

TO

Sub-Zero Freezer Company, Inc.

Madison, Wisconsin

From August 1st, 19 49

To July 31st, 19 59

Purpose Warehouse and Unloading Dock

Rent per annum $54 in advance Tax Clause

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 23RD day of AUGUST A.D. 19 49 at 10:00 o'clock A.M. and recorded in Vol. 42 of RAILROAD MORTGAGES on page 376 to 380.
[signature] Secretary of State

M O R T G A G E

OF ILLINOIS CENTRAL RAILROAD PROPERTY IN DANE COUNTY, WISCONSIN, UNDER LEASE DATED AUGUST 1, 1949

BY

SUB-ZERO FREEZER COMPANY, INC., LESSEE

TO

RECONSTRUCTION FINANCE CORPORATION

DATED, AUGUST 12th, 1949

CLA-LBE-8
Wisconsin Real Estate Mortgage
(Corp.)
(10-23-47)

MORTGAGE OF LEASEHOLD

THIS MORTGAGE, made this 12 day of August, 19 49, between SUB ZERO FREEZER COMPANY, INC., a corporation duly organized and existing under the laws of the State of Wisconsin and having its principal place of business in the City of Madison, State of Wisconsin, (hereinafter called the "Mortgagor"), and RECONSTRUCTION FINANCE CORPORATION, a corporation created by an Act of Congress entitled "Reconstruction Finance Corporation Act," approved January 22, 1932, as amended, (hereinafter called the "Mortgagee"),

WITNESSETH THAT:

WHEREAS, the Mortgagor, for its lawful corporate purposes, is authorized to borrow money and issue its obligations for money so borrowed, and to mortgage and pledge its property to secure the payment of such obligations, or of any debt contracted for any of such purposes, and

WHEREAS, the borrowing of money by the Mortgagor from the Mortgagee, in the amount set forth in the note hereinafter described, and the execution and delivery of this mortgage have been duly authorized by the Board of Directors and by the stockholders of the Mortgagor, and the ______ President, and ______ Secretary of the Mortgagor have been duly authorized, on behalf of the Mortgagor as its act and deed and under its corporate seal, to execute, acknowledge and deliver this mortgage, and

WHEREAS, to evidence the indebtedness secured hereby, the Mortgagor has executed and delivered to the Mortgagee its promissory note (hereinafter called the "Note") of which the following is a copy, excepting the names of the officers of the Mortgagor signing the same:

R. F. C. Form L-186
(Rev. 4-2-48)

NOTE

Madison, Wisconsin
(City and State)

$ 50,000.00 (Date) August 12, 19 49

For value received, the undersigned promises to pay to the order of Reconstruction Finance Corporation, at the Loan Agency of Reconstruction Finance Corporation, in the city of Chicago State of Illinois, or, at Payee's option, at such other place as may be designated from time to time by the Payee,

- - - - - - - - FIFTY THOUSAND - - - - - - - - dollars,
(Write-out amount)

with interest on unpaid principal computed from the date of each advance to the undersigned at the rate of four percent per annum, payment to be made in installments as follows: (a) Principal installments in the amount of $ 862.00 monthly, commencing three months(s) from the date hereof, and the balance on or before five years from the date hereof; (b) Interest payable monthly, beginning one month from the date xxxxxxx hereof; and (c) NET EARNINGS PROVISION: In xxxxxxxxxxxxxxxx addition to all other payments of principal required by this Note, undersigned shall make payments on or before March 1, 1950, and on or before the 1st day of March of each and every year thereafter, until payment in full of the indebtedness evidenced by this Note. The amount of the respective additional payments shall be an amount equal to 50% of the undersigned's net earnings before depreciation, for undersigned's immediately preceding fiscal year, less the aggregate amount hereinbefore required to be paid on principal of this Note (exclusive of those amounts paid and applied pursuant to this "Net Earnings Provision") during such preceding fiscal year. Such net earnings shall be determined in accordance with good accounting practice as determined by the Auditing Division of Payee. The payments so made under this "Net Earnings Provision" shall be applied on the installments of principal of this Note in the inverse order of their maturities.

The term "the Indebtedness" as used herein shall mean the indebtedness evidenced by this Note and any and all other indebtedness of the undersigned to Payee, including principal, interest, and/or expenses, whether contingent, now due or hereafter to become due and whether heretofore or contemporaneously herewith or hereafter contracted, and whether arising by operation of law, or out of the same or different transactions between the parties hereto, or between others. The term "the Collateral" as used in this Note shall mean any funds, guaranties, or other property or rights therein of any nature whatsoever or the proceeds thereof which may have been, are, or hereafter may be, hypothecated, directly or indirectly, by the undersigned or others, in connection with, or as security for, the Indebtedness or any part thereof. The Collateral, and each part thereof, shall secure the Indebtedness, and each part thereof. The covenants and conditions set forth or referred to in any and all instruments of hypothecation constituting the Collateral are hereby incorporated in this Note as covenants and conditions of the undersigned with the same force and effect as though such covenants and conditions were fully set forth herein.

The Indebtedness shall immediately become due and payable, without notice or demand, upon the appointment of a receiver or liquidator, whether voluntary or involuntary, for the undersigned or for any of its property, or upon the filing of a petition by or against the undersigned under the provisions of any State insolvency law or under the provisions of the Bankruptcy Act of 1898, as amended, or upon the making by the undersigned of an assignment for the benefit of its creditors. Payee is authorized to declare all or any part of the Indebtedness immediately due and payable upon the happening of any of the following events: (1) Failure to pay any part of the Indebtedness when due; (2) nonperformance by the undersigned of conditions imposed by and/or agreements with or required by Payee with respect to the Indebtedness; (3) Payee's discovery of the undersigned's failure in any application of the undersigned to Payee to disclose any fact deemed by Payee to be material or of the making therein or in any of the said agreements of any misrepresentation by, on behalf of, or for the benefit of the undersigned; (4) the reorganization (other than a reorganization pursuant to any of the provisions of the Bankruptcy Act of 1898, as amended) or merger or consolidation of the undersigned (or the making of any agreement therefor) without the prior written consent of Payee; (5) the undersigned's failure duly to account, to Payee's satisfaction, at such time or times as Payee may require, for any of the Collateral, or proceeds thereof coming into the control of the undersigned; or (6) the institution of any suit affecting the undersigned deemed by Payee to affect adversely its interest hereunder in the Collateral or otherwise. Payee's failure to exercise its rights under this paragraph shall not constitute a waiver thereof.

Upon the nonpayment of the Indebtedness, or any part thereof, when due, whether by acceleration or otherwise, Payee is empowered to sell, assign, and deliver the whole or any part of the Collateral, at public or private sale, without demand, advertisement or notice of the time or place of sale or of any adjournment thereof, which are hereby expressly waived. After deducting all expenses incidental to or arising from such sale or sales, Payee may apply the residue of the proceeds thereof to the payment of the Indebtedness, as it shall deem proper, returning the excess, if any, to the undersigned. The undersigned hereby waives to the full extent permitted by law all right of redemption or appraisement whether before or after sale. At any such sale Payee may become the purchaser of the whole or any part of the Collateral free from any right of redemption so far as permitted by law. Without limiting or affecting such power of sale, Payee is further empowered, upon the nonpayment of the Indebtedness, or any part thereof, when due, to collect or cause to be collected or otherwise to be converted into money all or any part of the Collateral, in the name of Payee or the undersigned or otherwise, by suit or otherwise, and to surrender, compromise, release, renew, extend, exchange, or substitute any item of the Collateral in transactions with the undersigned or any third party, irrespective of any assignment thereof by the undersigned, and without prior notice to or consent of the undersigned or any assignee. Whenever any item of the Collateral shall not be paid when due, or otherwise shall be in default, whether or not the Indebtedness, or any part thereof, has become due, Payee shall have the same rights and powers with respect to such item of the Collateral as are granted in respect thereof in this paragraph in case of nonpayment of the Indebtedness, or any part thereof, when due. None of the rights, remedies, privileges or powers of Payee expressly provided for herein shall be exclusive, but each of them shall be cumulative with and in addition to every other right, remedy, privilege, and power now or hereafter existing in favor of Payee, whether at law or in equity, by statute or otherwise.

The undersigned agrees to take all necessary steps to administer, supervise, preserve, and protect the Collateral; and regardless of any action taken by Payee, there shall be no duty upon Payee in this respect. The undersigned shall pay all expenses of any nature, whether incurred in or out of court, and whether incurred before or after this Note shall become due at its maturity date or otherwise, including but not limited to reasonable attorney's fees and costs, which Payee may deem necessary or proper in connection with the satisfaction of the Indebtedness or the administration, supervision, preservation, protection (including, but not limited to, maintenance of adequate insurance) of or the realization upon the Collateral. Payee is authorized to pay at any time and from time to time any or all of such expenses, add the amount of such payment to the amount of the Indebtedness, and charge interest thereon at the rate specified herein with respect to the principal amount of this Note.

The security rights of Payee and its assigns hereunder shall not be impaired by Payee's sale, hypothecation or rehypothecation of any note of the undersigned or any item of the Collateral, or by any indulgence, including but not limited to (a) any renewal, extension, or modification which Payee may grant with respect to the Indebtedness or any part thereof, or (b) any surrender, compromise, release, renewal, extension, exchange, or substitution which Payee may grant in respect of the Collateral, or (c) any indulgence granted in respect of any endorser, guarantor, or surety. The purchaser, assignee, transferee, or pledgee of this Note and/or the Collateral, guaranty or other document sold, assigned, transferred, pledged, or repledged, shall forthwith become vested with and entitled to exercise all the powers and rights given by this Note and all applications of the undersigned to Payee, as if said purchaser, assignee, transferee, or pledgee were originally named as Payee in this Note and in said application or applications.

ATTEST:

SUB ZERO FREEZER COMPANY, INC.

______________________ Secretary

By: ______________________ President

(CORPORATE SEAL)

NOTE.—Corporate applicants must execute Note in corporate name, by duly authorized officer, and seal must be affixed and duly attested; partnership applicants must execute Note in firm name, together with signature of a general partner. Blanks in Note annexed to application should be filled in, but such Note should not be executed. Formally executed Note is to be delivered at the time of disbursement of loan.

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NOW, THEREFORE, in order to secure the payment of the principal of and interest on the Note according to its terms, and to secure the performance and observance by the Mortgagor of all the covenants and conditions contained in the Note, and in this mortgage, and all covenants and agreements by it to be performed under the terms of all contracts now or hereafter entered into between the Mortgagor and the Mortgagee in connection with the indebtedness evidenced by the Note, and for a valuable consideration the Mortgagor does hereby grant, bargain, sell, assign, alien, release, remise, transfer, convey, warrant, mortgage and pledge unto Mortgagee, its successors and assigns, the following property (hereinafter sometimes called the "Mortgaged Property") to-wit:

[redacted]

Leasehold Estate created by an Indenture of Lease dated August 1, 1949 and bearing Number 18940, between the Illinois Central Railroad Company, a corporation, as Lessor, and Sub-Zero Freezer Company, Inc., a corporation, as Lessee (Mortgagor herein), for a term of 10 years from August 1, 1949, as modified and amended by an Addendum attached thereto dated August 1, 1949 between Lessor and Lessee modifying certain provisions of said Lease and adding some provisions thereto (which Indenture of Lease and Addendum are sometimes herein referred to as the "Lease"). The Lease demises the following described premises, situate, lying and being in the County of Dane, State of Wisconsin, to-wit:

Beginning at a point 1050 feet southerly from the intersection of the southerly line of an easterly and westerly public road and the centerline of lessor's main track as measured along said centerline and 22½ feet easterly therefrom as measured at right angles thereto; thence southerly parallel to said centerline 325 feet; thence easterly at right angles 107.5 feet to a point 18 feet westerly from Lessor's easterly wayland line as measured at right angles thereto; thence northerly parallel to said wayland line 325 feet; thence westerly at right angles 107.5 feet to point of beginning - Containing 34937 sq. ft.

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All real estate, or any interest therein, and all leasehold estates of whatsoever term whether now owned or hereafter acquired by the Mortgagor;

Together with all and singular, the tenements, hereditaments and appurtenances belonging or in any wise appertaining to said Mortgaged Property;

All buildings, plants, improvements and structures, whether now or hereafter placed on the property demised by said lease or any part thereof, together with all roads, streets, ways, alleys, waters, water courses, switch track facilities, easements, rights, liberties and privileges whatsoever to any of the Mortgaged Property belonging or appertaining, and the reversions and remainders thereof;

Together with the terms granted, leased and demised by the above described Lease and any extensions or renewals thereof, and all the right, title and interest however acquired by said Mortgagor in and to said terms and Lease and any extensions or renewals thereof, and the real estate hereinabove referred to and in said Lease described, reserving and excepting, however, from the estate hereby conveyed the last day of the term of said Lease, or any extensions or renewals thereof;

All the rents, issues, income and profits of the property above described.

TO HAVE AND TO HOLD the above described Mortgaged Property unto the Mortgagee, its successors and assigns, forever, for the uses and purposes herein set forth.

Provided, however, that if the Mortgagor shall pay or cause to be paid the indebtedness secured by this Mortgage, then the estate hereby granted shall cease and this mortgage become null and void and be released at the expense of the Mortgagor.

The Mortgagor hereby covenants and agrees:

1. That the Mortgagor will pay promptly as and when the same respectively become due, whether by lapse of time or by declaration or otherwise, the principal and all installments of the principal of, and all interest on the Note and all other indebtedness hereby secured, without relief from valuation and appraisement laws.

2. That Mortgagor will perform, or cause to be performed, all covenants, conditions, obligations and provisions of the Note, of all applications, and of all agreements however evidenced heretofore or hereafter entered into between the Mortgagor and the Mortgagee, its successors or assigns or the holder of the Note, connected in any manner whatsoever with the incurring of, or the security for, the indebtedness hereby secured.

3. That Mortgagor is lawfully seized of the Mortgaged Property and has good right to grant, sell, bargain, alien, release, convey, assign, warrant, transfer, mortgage and pledge the same; that the Mortgagor has and will preserve good and indefeasible title to the Mortgaged Property; that the Mortgaged Property is free and clear of all encumbrances unless otherwise expressly stated above and that the Mortgagor will warrant and forever defend the same against the claims of all persons whomsoever.

4. That Mortgagor will keep the Mortgaged Property in good repair and operating condition, and will pay all taxes and assessments, special or otherwise, levied or assessed upon the Mortgaged Property or any part thereof, or levied or assessed against the Mortgagor (including but not limited to personal property taxes, sales taxes, income taxes, processing taxes and license fees) promptly as and when the same become due and before penalties accrue, and will not permit any part of the Mortgaged Property or any other property of the Mortgagor, or any interest therein, to be sold or forfeited for any tax or assessment whatsoever, but it is understood and agreed that the Mortgagor may, at its option and in good faith and with reasonable diligence, contest the validity or amount of any such tax or assessment, provided it shall first secure the consent in writing of the Mortgagee, its successors or assigns or the holder of the Note, and deposit with the Mortgagee, its successors or assigns or the holder of the Note, an amount sufficient, in the opinion of the Mortgagee, its successors or assigns or the holder of the Note, to pay in full such contested tax or assessment, including all penalties, interest or costs that may be due or accrue thereon.

5. That Mortgagor will not permit any lien of mechanics or material men to attach to the Mortgaged Property.

6. That, until payment of the principal of and interest on the Note (or any note given in renewal or extension thereof), the Mortgagor will keep itself, its subsidiaries and affiliates, and all the Mortgaged Property insured against loss or damage by fire and against all other risks against which the Mortgagee, its successors or assigns, or the holder of the Note, may require the Mortgagor to insure, in such companies, in such amounts, and by policies in such form, as shall be satisfactory to the Mortgagee, its successors or assigns, or the holder of the Note, and make all sums recoverable upon all such policies insuring the Mortgaged Property payable to the parties interested in the Mortgaged Property (including the Mortgagee, its successors and assigns, and the holder of the Note) as their interests may appear, by agreements, in form satisfactory to the Mortgagee, its successors and assigns, or the holder of the Note, to be attached to such policies, and shall deliver all policies insuring the Mortgaged Property to the Mortgagee, its successors or assigns, or the holder of the Note.

7. That Mortgagor will, at all times, do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence, rights and franchises, and the corporate existence, rights and franchises of any subsidiary or constituent company, and will not, without the prior written consent of the Mortgagee, its successors or assigns, or the holder of the Note, attempt or effect any consolidation or merger of the Mortgagor or any subsidiary or constituent company with any other firm or corporation.

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8. That Mortgagor will comply with all acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body or official applicable to the Mortgaged Property, or any part thereof, or to the Mortgagor or the operation of its business; provided, however, that the Mortgagor may contest any acts, rules, regulations, orders and directions of the bodies or officials referred to in this paragraph in any reasonable manner which will not, in the opinion of the Mortgagee, its successors or assigns, or the holder of the Note, adversely affect their rights.

9. That the Mortgagor will not sell, assign, lease, transfer, mortgage or pledge, or attempt to sell, assign, lease, transfer, mortgage or pledge, Mortgagor's interest or any part thereof, in the Mortgaged Property or in any other property securing the payment of the indebtedness above described, except with the written agreement in form and substance satisfactory to the Mortgagee, its successors or assigns or the holder of the Note, between the purchaser, assignee, lessee, transferee, mortgagee or pledgee and the Mortgagee, its successors or assigns or the holder of the Note, protecting the rights and powers of the Mortgagee, its successors and assigns and the holder of the Note, in respect to the Mortgaged Property.

10. That Mortgagor will not do or permit to be done anything that may impair the value of the Mortgaged Property or the security intended to be effected by this mortgage.

11. That Mortgagor will, from time to time, forthwith upon the request of the Mortgagee, its successors or assigns, or the holder of the Note, give to the Mortgagee, its successors or assigns, or the holder of the Note, a complete description in writing of all property acquired by it after the date hereof and of all property owned by it or in which it has any interest.

12. That Mortgagor, for better security of the indebtedness hereby secured, will, from time to time, forthwith upon the request of the Mortgagee, its successors or assigns, or the holder of the Note, make, execute, acknowledge and deliver to the Mortgagee, its successors or assigns, or the holder of the Note, further deeds, mortgages, pledges and/or assignments of all property acquired by it after the date hereof (all in form satisfactory to the Mortgagee, its successors or assigns, or the holder of the Note) and pay all expenses incident thereto.

13. That Mortgagor will make, execute, acknowledge and deliver or cause to be made, executed, acknowledged and delivered all such further deeds, mortgages, assignments, pledges, instruments, transfers and assurances as shall be required by the Mortgagee, its successors or assigns, or the holder of the Note, for the better conveying, mortgaging, assigning, pledging, assuring and confirming unto the Mortgagee, its successors or assigns, or the holder of the Note, the Mortgaged Property hereby conveyed or intended so to be, and upon request by the Mortgagee, its successors or assigns, or the holder of the Note, it will, at any time, and from time to time, forthwith execute, acknowledge and deliver such deeds, mortgages, assignments, pledges, instruments, transfers and/or assurances and do or cause to be done all such acts as shall be required by the Mortgagee, its successors or assigns, or the holder of the Note, for effectually carrying out the intent hereof.

14. That the Mortgagor will pay promptly as and when the same shall become due, all rentals due under the lease of property in which the Mortgagor's leasehold interest is by this mortgage conveyed, assigned and transferred to the Mortgagee, and that Mortgagor will do, keep, observe and perform all the covenants and conditions of such lease, or any renewals thereof, and

will not do or permit to be done any act or thing by reason of which the Mortgagor's leasehold estate or interest under such lease, or any renewals thereof, might be forfeited or terminated. In case and whenever default shall be made by the Mortgagor in paying any installment of rent or any sum required to be paid under any such lease, or default shall be made by the Mortgagor in any other particular thereunder, the Mortgagee may, in its discretion, pay such installment of rent or such sum in default, or cure such other default, and said Mortgagor will forthwith reimburse the Mortgagee for its expenditures made in the premises, with interest at the rate of five percent per annum and, until so reimbursed, the Mortgagee shall have a lien for such advances and interest upon the leasehold estate and all other mortgaged property. For the purpose of curing any such default the Mortgagee may do any act or execute any document in the name of the Mortgagor, or as the attorney-in-fact of Mortgagor, as well as in the Mortgagee's own name, as the Mortgagee may, in its discretion determine. The Mortgagor will file with the Mortgagee, a receipt or other satisfactory evidence, showing payment to have been made for each installment of rent under such lease within ten days after the same shall have become due and payable.

The Mortgagee shall, under no circumstances, be obliged to pay, or be liable for the rent payable under said lease, or any renewals thereof, or for the performance of any of the covenants, agreements, obligations or undertakings of the lessee thereunder, or to take notice or give notice of defaults in such lease or in respect of performance or failure to observe and perform any or all of the terms of such lease, or any renewals thereof, by the lessee, or to take or give notice of violations of municipal ordinances or any other lawful regulation in respect of such lease or of said leased premises or any buildings situated thereon.

In case of the failure of Mortgagor, as above provided, to keep the Mortgaged Property in good repair and operating condition, to pay all taxes and assessments, to keep the Mortgaged Property free from liens of mechanics or material men or to keep itself, its subsidiaries and affiliates, and the Mortgaged Property insured as above covenanted, then the Mortgagee, its successors or assigns, or the holder of the Note, may, at its or their option, place the Mortgaged Property or cause it to be placed in good repair and operating condition, pay or settle such taxes or assessments, including accrued penalties, if any, at any time after said taxes or assessments shall have become due and payable, contest any and all taxes and assessments whenever, in the opinion of the Mortgagee, its successors or assigns, or the holder of the Note, such contest is necessary, redeem the Mortgaged Property or any part thereof from any sale or forfeiture for any tax or assessment or purchase any tax title obtained or that shall be obtained thereon, pay any judgments based upon such tax levies, pay, settle or contest any lien or claim for lien of mechanics or

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IN WITNESS WHEREOF, the Mortgagor has caused these presents to be signed by Westye F. Bakke, its President, and countersigned by Lawrence C. Bakke, its Secretary, and its corporate seal to be hereunto affixed on the day and year first above written.

SUB ZERO FREEZER COMPANY, INC.

(CORPORATE SEAL)

By Westye F Bakke
President
(Westye F. Bakke)

Signed and sealed in the presence of:

Richard Rynders
Kathryn G Haralson

Countersigned:

Lawrence C. Bakke
Secretary
(Lawrence C. Bakke)

STATE OF WISCONSIN }
COUNTY OF DANE } SS

On this 12 day of August, 1949, before me, Richard Rynders, the undersigned officer, personally appeared Westye F. Bakke, to me known to be the person who executed the foregoing instrument, who acknowledged him self to be the President of Sub Zero Freezer Company, Inc., a corporation, and that he, as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by him self as President.

On this 12 day of August, 1949, before me, Richard Rynders, the undersigned officer, personally appeared Lawrence C. Bakke, to me known to be the person who executed the foregoing instrument, who acknowledged him self to be the Secretary of Sub Zero Freezer Company, Inc. a corporation, and that he, as such Secretary, being authorized so to do, countersigned the foregoing instrument for the purposes therein contained.

In witness whereof, I have hereunto set my hand and official seal.

State of Wisconsin
DEPARTMENT OF STATE
Received this 23RD day of
AUGUST A.D. 1949 at 10:00
and recorded in Vol. A
of RAILROAD MORTGAGES
on pages 381-390
Fred R. Zimmerman
Secretary of State

Richard Rynders
Notary Public in and for the
County of Dane,
State of Wisconsin.

(NOTARIAL SEAL)

My commission expires: April 13 1952

WISCONSIN

Executed in 22 Counterparts

Counterpart No. 4

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

Lease of Railroad Equipment

DATED AS OF JUNE 1, 1951

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

TO

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

Agreement

DATED AS OF JUNE 1, 1951

H. J. GROENER AND H. H. CONLEY
VENDORS

WITH

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

AND

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

THE TWENTIETH CENTURY PRESS, INC., CHICAGO

LEASE OF RAILROAD EQUIPMENT, dated as of June 1, 1951, 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 a certain agreement, dated as of June 1, 1951, among H. J. Groener and H. H. Conley, Vendors, Continental Illinois National Bank and Trust Company of Chicago, as Trustee, and Chicago, Milwaukee, St. Paul and Pacific Railroad Company (hereinafter called the Agreement), 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 NN," 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 the 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 the 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 Company, has let and leased, and does hereby let and lease, to the Railroad Company all the following standard gauge railroad equipment of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series NN (which together with the additional and substituted equipment and replacements as herein and in the Agreement provided are hereinafter and in the Agreement collectively called the Trust Equipment), to wit:

Number	Description	Estimated Cost Each	Estimated Cost Total
	Diesel-electric Transfer Locomotives:		
5	2400 H.P. Diesel-electric transfer locomotives, each comprised of a lead unit and a booster unit, and numbered, respectively, 2002A and 2002B to 2006A and 2006B, both inclusive	$196,384.09	$ 981,920.44
	Freight-train Cars:		
600	40'0", 50-ton, R.B. type refrigerator cars, lettered "D.R.D.X." and numbered 4000 to 4599, both inclusive	6,500.00	3,900,000.00
250	29'2", 70-ton, all steel, covered hopper cars, Nos. 99325 to 99574, both inclusive	6,300.00	1,575,000.00
30	65'6", 70-ton, all steel, low side gondola cars, Nos. 93535 to 93564, both inclusive	6,425.00	192,750.00
50	cabooses, all steel, equipped with radio, Nos. 02065 to 02114, both inclusive	9,830.00	491,500.00
	Total estimated cost		$7,151,170.44

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 Railroad Company certifies to the Trustee that the estimated total cost of the railroad equipment specifically described in the last foregoing paragraph hereof and the estimated cost of each unit of said equipment are the respective estimated costs in said paragraph set forth; and the Railroad Company further certifies to the

Trustee that the aggregate cost of the Trust Equipment certified to the Trustee in the final certificate of cost, pursuant to Section 4 of Article I of the Agreement, shall be not less than $7,100,000.

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 the 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 the 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.

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 the 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 subparagraph (b) of Section 4 of Article I of the Agreement. In case any certificate furnished pursuant to said subparagraph (b) of said Section 4 or pursuant to 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 NN, 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

The Railroad Company hereby accepts (subject to the conditions mentioned in the 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) Upon the delivery by the Trustee of any of the Trust Certificates in the Agreement defined, in accordance with the provisions of Section 2 of Article I of the Agreement, such amount, if any, whereby seventy-five per cent (75%) of the aggregate estimated cost of the Trust Equipment, as certified to the Trustee by the Railroad Company in this Lease, exceeds the principal amount of said Trust Certificates.

(b) 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 the difference between the cost of the Trust Equipment so delivered as certified to the Trustee pursuant to Section 4 of Article I of the Agreement and the amount of Deposited Cash payable in respect thereof pursuant to Section 3 of Article I of the Agreement; provided, however, that the aggregate of all amounts so paid to the Trustee shall never be less than 25% 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 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 the Agreement evidencing the same, which

the Trustee, as such, by law may be required to pay, but excluding any and all taxes, assessments and other governmental charges which the Railroad Company or the Trustee may be required to pay or 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.

(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, to the extent that the same may be legally enforceable, 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 plus any interest paid to the Trustee on such securities is less than the purchase price thereof including any accrued interest.

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.

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 a Vice-President 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 the 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 a Vice-President or the 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, 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 certificates as to delivery and cost in like manner as is provided in Section 4 of Article I of the Agreement; provided, however, that such rolling stock shall not be work equipment, except in substitution for or replacement of work equipment, if any, hereinbefore listed and described. 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 the 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 NN, 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; provided, however, that such rolling stock shall not be work equipment, except in replacement of work equipment, if any, hereinbefore listed and described. 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, 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 a Vice-President or the Comptroller of the Railroad Com-

pany, 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 the Agreement.

Thereupon, such new equipment shall be deemed a part of the Trust Equipment, subject to all the terms and conditions hereof and of the 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 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 the 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 subparagraph (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 a Vice-President or the 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 a Vice-President or the 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 of Motive Power or an Assistant to Superintendent of Motive Power, in the case of locomotives, or by its Superintendent Car Department or an Assistant Superintendent Car Department, in the case of cars, 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.

pose 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 covenants contained in this paragraph 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 the 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

details of such proposed action and the reasons therefor, consent thereto. A transfer or assignment to a railroad company which shall acquire all or substantially all the lines of railroad of the Railroad Company and which, by execution of an appropriate instrument satisfactory to the Trustee, shall assume and agree to perform each and all of the obligations and covenants of the Railroad Company hereunder and under the Agreement and under the guaranty provided for in the Agreement, shall not be deemed a

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 the 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 the Agreement, to be duly filed, registered or recorded and duly refiled, reregistered and rerecorded as required by the provisions of Section 3 of Article IV of the Agreement, 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

road 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 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 of Motive Power or an Assistant to Superintendent of Motive Power, in the case of locomotives, or by its Superintendent Car Department or an Assistant Superintendent Car Department, in the case of cars, 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

requested by the Trustee for the publication and protection of the title of the Trustee to the Trust Equipment.

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 the Agreement on its part to be performed, including, without limiting the generality of the foregoing, all recording and registration taxes and fees, and all expenses incident to the preparation, execution, acknowledgment, filing, refiling, registering, re-registering, recording and rerecording of this Lease and the 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, the 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 the 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,
As Trustee,

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:

.....
W. G. Everist.
.....
E. W. Fahrenbach,
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:

.....
Gertrude W. Schoyer.
.....
Ruth E. Hall,
Attesting Witnesses.

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

I, E. W. LUEDERS, 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 June, 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 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 instru-

ment 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 October 19, 1953.

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

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

I, R. W. SPANGENBERG, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, DO HEREBY CERTIFY that on this 15th day of June, 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, each 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 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; 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. Spangenberg,
Notary Public in and for the State of Illinois, County of Cook.

THIS AGREEMENT, dated as of June 1, 1951, by and among **H. J. GROENER** and **H. H. CONLEY** (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 and 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 (herein called the Lease), to which Lease reference is hereby made; and

WHEREAS, subscriptions have been or are being secured, in an amount not exceeding $5,300,000 to a fund to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series NN, 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 $5,300,000 in twenty semiannual installments of $265,000 each, payable respectively on June 1st and December 1st, in each year, beginning on December 1, 1951, and ending on June 1, 1961, 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 the Lease a valid, binding and legal agreement and lease, respectively, have been done and performed;

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

ARTICLE 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 the 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 or otherwise acquired 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 the Lease.

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 the Lease or of other instruments 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 NN, herein called the Trust Certificates, upon the deposit in cash with the Trustee of (a) 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 and (b) the instalment of rent, if any, then payable pursuant to subparagraph (a) of Article First of the Lease.

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 credited by the Trustee against the next instalment of rent payable pursuant to subparagraph (e) of Article First of the Lease.

SECTION 3. The term "Deposited Cash," whenever used herein, shall mean 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 (excluding any accrued dividends paid upon the original issue of Trust Certificates), plus any interest allowed or earned thereon and any amounts added thereto pursuant to Section 6 of this Article I. 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. Whenever

from time to time any of the Trust Equipment shall 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 which, together with all payments previously made out of Deposited Cash, shall equal seventy-five per cent of the aggregate estimated cost, as certified in the provisions of the Lease, of the Trust Equipment then and theretofore so transferred and delivered to the Trustee, or seventy-five per cent of the aggregate cost of the Trust Equipment then and theretofore so transferred and delivered to the Trustee, as certified to the Trustee pursuant to Section 4 of this Article I, whichever is less. The Trustee shall make payment of the remainder of such certified cost out of the instalment of rental payable on such delivery pursuant to subparagraph (b) of Article First of the Lease.

Should the Vendors transfer and deliver or cause to be transferred and delivered to the Trustee, as required by and in pursuance of the provisions of Section 5 of this Article I, equipment in addition to the original Trust Equipment specifically described in the Lease and should seventy-five per cent of the cost of such additional equipment so transferred and delivered to the Trustee, as such cost is certified to the Trustee pursuant to Section 4 of this Article I, exceed the amount of Deposited Cash held by the Trustee at the time of said transfer and delivery, then the Trustee shall, if requested by the Vendors so to do, pay to the Vendors or upon their order, the full amount of the Deposited Cash at said time held by the Trustee. The Trustee shall make payment of the remainder of such certified cost of said additional equipment out of the instalment of rental payable on such delivery pursuant to subparagraph (b) of Article First of the Lease.

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, that such Trust Equipment is standard gauge equipment and stating that the Trust Equipment specified by numbers in such certificate has been marked in accordance with the provisions of Article Fourth of the Lease;

(b) a certificate of the Railroad Company, signed by the President or a Vice-President or the Comptroller of the Railroad Company, certifying that the cost of such Trust Equipment, determined as provided in the 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 Trustee, or to the Vendors, and, if to the latter, from the Vendors to the Trustee, each 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, and each 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, such liens have been released or subordinated as to such Trust Equipment so as to secure or confirm the prior

right, charge, lien or title of the Trustee 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 duly subordinated as to such Trust Equipment so as to secure or confirm the prior right, charge, lien or title of the Trustee 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, 1952.

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, or for any other cause deemed to be sufficient by the Trustee, the Vendors shall be unable to acquire any of the Trust Equipment specifically described in the Lease, the Vendors may cause to be built or acquired and 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 ma-

terial and construction, as may be approved by the Railroad Company; provided, however, that work equipment shall not be acquired except in substitution for work equipment, if any, 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 for any thereof in accordance with the provisions of the foregoing paragraph, acquired by the Trustee hereunder, shall not amount to at least $7,100,000, then the Vendors shall cause to be built or acquired and 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 $7,100,000.

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, plus any interest paid to the Trustee on such securities, is less than the purchase price thereof, including any accrued interest, the Railroad Company shall forthwith pay to the Trustee the amount of such deficiency as rental, as provided in Article First of the Lease. All interest received by the Trustee on such securities, and all proceeds of the sale thereof, including 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 $5,300,000 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 the Lease otherwise provided for, shall be credited against the next installment of rental payable under subparagraph (f) of Article First of the 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 2⅞ per cent per annum from June 1, 1951, payable semiannually on the first day of June and December in each year. $265,000 principal amount of the Trust Certificates shall become due and payable on June 1 and December 1 in each year beginning on December 1, 1951, and ending on June 1, 1961. 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 5,300, both inclusive.

Dividend warrants evidencing the rights of the holders of the Trust Certificates to the dividends thereon shall be annexed to the respective definitive Trust Certificates.

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 NN

Total Issue not to exceed $5,300,000

Dividends at the rate of Two and Seven-Eighths
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, 1951, (hereinafter referred to as the "Agreement"), among H. J. Groener and H. H. Conley, of the first part, Continental Illinois National Bank and Trust Company of Chicago, Trustee (hereinafter referred to as the "Trustee"), of the second part, and 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 NN, payable on ..... 1, 19...., unless prior payment hereof be required as hereinafter provided, and to dividends thereon at the rate of two and seven-eighths per cent (2⅞%) per annum from June 1, 1951, 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

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 shall 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, as such, may be liable, but excluding any and all taxes, assessments and other governmental charges which the Railroad Company or the Trustee may be required to pay or 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.

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 divi-

dends thereon in like coin or currency at the rate of 2⅛ per cent per annum from June 1, 1951, 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, so far as legally enforceable, at the same rate per annum as provided in the dividend warrants); 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 the 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 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 the Lease or of any instruments executed under the provisions hereof or of the Lease in respect of the Trust Equipment, 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 the Lease and any supplemental leases and agreements which may be executed under the terms of this Agreement, or of the Lease, to be duly filed and refiled or recorded and rerecorded, as may be required by law, 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 required by law, so that this Agreement and the 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 the 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 the 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 the Lease or of this Agreement, except subject to the prior payment in full of the principal of all other Trust Certificates and of all other 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 the Lease shall happen, the Trustee in its discretion may, and at the request of the bearers of not less than 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 interests of the bearers of the Trust Certificates. Upon the written request of the bearers of not less than 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 the Lease conferred, or to take appropriate judicial proceedings by action, suit or otherwise, as the Trustee being advised by counsel shall deem most expedient in the 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 the 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, to the extent legally enforceable, at the same rate per annum as provided in the dividend warrants; and

(2) of the principal of all the 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, 1961, all arrears of rental (with interest upon any overdue installment, to the extent legally enforceable, at the same rate per annum as provided in the dividend warrants), the expenses and reasonable compensation of the Trustee and all other sums which shall have become due and payable by the Railroad Company hereunder or under the 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 the 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 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 the 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 the 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 the 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 the Lease.

Section 2. The Trustee covenants and agrees to apply and distribute the rentals received by it under subparagraphs (e), (d), (e), (f) and (g) of Article First of the 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, including the proper compensation of the Trustee and its counsel for their services and all expenses connected with the Trust Equipment and the Lease thereof;

(b) to the payment of any taxes, assessments and other governmental charges upon the income or property of the trust, or this Agreement, which the Trustee as such may by law be required to pay, but excluding any and all taxes, assessments and other governmental charges which the Railroad Company or the Trustee may be required to pay or 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 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

ing, recording or rerecording of this Agreement or of the 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 the 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 thereof 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 the 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

(e) to the payment, in so far as legally enforceable, 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 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 the 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 the 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, refil-

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, a 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 a Vice-President 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 the 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.

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:

.....
Gertrude W. Schoyer,

.....
Ruth E. Hall,
Attesting Witnesses.

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

I, E. W. LUEDERS, 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, 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 H. J. Groener and H. H. Conley, 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 H. J. Groener and H. H. Conley 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 October 19, 1953.

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

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

I, E. W. LUEDERS, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements, and hereditaments in said County, DO HEREBY CERTIFY that on the 19th day of June, 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 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 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 October 19, 1953.

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

STATE OF WISCONSIN)
Department of State) ss.

Received this 20th day of June, A.D., 1951, at 10:00 o'clock A.M., and recorded in Vol. 42 of Railroad Mortgages on Pages 391-423, incl.

Fred R. Zimmerman
Secretary of State

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STATE OF ILLINOIS, } ss.
COUNTY OF COOK.

I, R. W. Spangenberg, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements, and hereditaments in said County, DO HEREBY CERTIFY that on the 15th day of June, 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 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; that they, said J. W. Severs, Vice-President, and T. W. Burtness, Secretary, know the corporate seal of said corporation; that the

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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 ILLINOIS, } ss.
COOK COUNTY.

I, RICHARD J. DALEY, County Clerk of the County of Cook, [illegible] certify that I am the lawful custodian of the official [illegible] and to issue certificates of magistracy, that R. W. Spangenberg [illegible]

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 18 day of June 1951.

Richard J. Daley, County Clerk

INDENTURE OF LEASE

BETWEEN

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

AND

THE FALL RIVER CANNING COMPANY

DATED FEBRUARY 20, 1951.

- - - - - - - - - - -

LESSEE'S COPY

LEASE No. 59773 (Rev. of No. 28126)

This Indenture

Made this TWENTIETH day of FEBRUARY, A. D. 1951, by and between the CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, hereinafter called "Railroad Company," and

FALL RIVER CANNING CO.

a Corporation of the State of Wisconsin

of Fall River, Wisconsin, hereinafter called "Lessee,"

WITNESSETH:

FIRST: The Railroad Company does hereby lease, demise and let unto the Lessee, the following piece or parcel of land lying within and being a portion of its property, at the Station of STOUGHTON County of DANE State of WISCONSIN and described as follows, to-wit:

START at the point on the center line of the Railroad Company's most easterly side track, at the southeasterly end of its Freight House, as said facilities are now established upon its station ground property in the Town of Stoughton, in the County and State aforesaid; thence southeasterly along the center line of said track 547 feet; thence northeasterly at right angles 8.5 feet to the point of beginning of the land to be described; thence southeasterly parallel to said track 323 feet; thence northeasterly at right angles 83 feet; thence northwesterly parallel to said track 130 feet; thence southwesterly at right angles 8 feet; thence northwesterly parallel to said track 193 feet; thence southwesterly 75 feet to the point of beginning.

CONTAINING 25,182 square feet, the location thereof being more particularly indicated by the red outline on the plat hereto attached and made a part hereof.

The parties hereto, by the execution of this lease, hereby terminate any prior leases of the premises herein demised.

Term / Effective Date — TO HOLD for the term of TEN (10) years from the first day of [illegible], 1951, ~~and thereafter until sixty days after either party shall have given to the other written notice of its desire to terminate this Indenture,~~ but subject always to the following express conditions, viz:

Rental — 1. That the Lessee shall pay as rent for said demised premises the sum of THREE HUNDRED FORTY ONE AND 00/100 ($341.00) Dollars per annum payable ANNUALLY in advance, together with all taxes and assessments (except special assessments for permanent improvements) legally levied or assessed against said premises for the term hereof or of any extension thereof; and in case of special assessments for permanent improvements, the annual rental will be increased by 6% of such assessment;

Purpose — 2. That the Lessee shall use said premises as a site for a CANNING PLANT and for no other purpose whatsoever, unless the Railroad Company shall consent in writing to a change of user, and that it will not, without like consent, assign this lease or underlease said premises or any part thereof;

3. That the Lessee shall continuously carry on its business upon said premises in an efficient manner, unless discontinued by written consent of the Railroad Company; that said premises shall be used and the business thereon conducted, in so far as it may affect the interests or operations of the Railroad Company, to the approval of its General Manager; and that it will not in any way obstruct or interfere with the tracks of the Railroad Company;

4. That the property herein demised is leased in its condition at the date hereof; that any and all facilities, including overhead or underground fixtures, located thereon shall be maintained and operated as heretofore;

5. That the Lessee shall erect upon said site the building or buildings appropriate for the uses herein mentioned, and have the same completed and ready for use within three months from the date of this lease; and that all doors in such building or buildings shall be so constructed as to open inward or be of a sliding type;

6. The Lessee.... agree...s to keep said premises and all buildings thereon in a neat and orderly condition, and to cover all buildings with one or more coats of approved paint, whenever required so to do by the Railroad Company, of such color as the Railroad Company may direct, and that no signs nor advertisements of any description shall be permitted to be painted or posted upon said buildings, or about said premises, other than those of the business of the Lessee...., and as shall be approved by the Railroad Company.

7. It is understood that the movement of railroad locomotives includes some risk of fire, and the Lessee.... assume...s all liability for and agree...s to indemnify the Railroad Company against loss or damage to property of the Lessee...., or to property upon the Lessee...s premises, regardless of railroad negligence, arising from fire caused by locomotives operated by the Railroad Company in the vicinity of said demised premises, except to the premises of the Railroad Company, and to rolling stock belonging to the Railroad Company or to others, and to shipments in the course of transportation;

8. That the Lessee.... hereby release...s the Railroad Company from and agree...s to indemnify it against all loss, damage or injury, caused by or resulting from any act or omission of the Lessee...., ...its..... employes or agents, to the person or property of the parties hereto and their employes, and to the person or property of any other person or corporation, while on or about said demised premises, and if any claim or liability other than from fire shall arise from the joint or concurring negligence of both parties, hereto, it shall be borne by them equally.

9. That in any case where the covenants, agreements and releases contained in the two preceding paragraphs shall be held not to be valid in law, the Railroad Company shall have the full benefit of any insurance, effected by the Lessee.... upon the property injured or destroyed.

10. That the right or interest created by this instrument shall be subject and subordinate to the continuing lien of the First Mortgage dated as of January 1, 1944, executed and delivered by Chicago, Milwaukee, St. Paul and Pacific Railroad Company to Continental Illinois National Bank and Trust Company of Chicago, Trustee, and to the lien of the General Mortgage dated as of January 1, 1944, executed and delivered by Chicago, Milwaukee, St. Paul and Pacific Railroad Company to Harris Trust and Savings Bank, Trustee.

11. That any violation of or failure to comply with any foregoing condition shall terminate this lease without any notice or act upon the part of the Railroad Company, and thereupon it may re-enter and take possession of said premises, as by law provided;

SECOND: The Lessee.... hereby accept...s the foregoing lease, and covenant ...s and agree...s faithfully to observe and perform all the terms, conditions and requirements therein contained, and .....its.....further agree...s that.....its..will surrender said demised premises at any termination of this lease, and will, on or before the effective date of such termination, completely remove from said premises all property owned or placed therein by.....its....., and will restore the premises to a state of usefulness for general purposes; that failure so to remove all such property shall be conclusively deemed an abandonment thereof to said Railroad Company, thereby waiving all .....its... right, title and interest in and to such abandoned property; and that in such case the Railroad Company shall, from and after the effective date of any such termination, be at full liberty to re-enter and take possession of all the demised premises and, at the sole expense of the Lessee...., to remove therefrom all such property there remaining and to restore the premises to a state of usefulness for general purposes, and the Lessee.... hereby bind...s itself.....to pay unto the Railroad Company promptly upon receipt of bill therefor, the entire cost and expense of such removal and restoration; or, at its own sole option, to appropriate and dispose of any such property without any liability or accountability whatever therefor; but nothing herein contained shall preclude the Railroad Company from any other legal remedy.

All the terms, conditions and covenants of this lease shall, during its continuance, be binding upon the Railroad Company, its successors and assigns, and upon the Lessee.... and...its..... successors and assigns, ~~heirs~~ and legal representatives.

IN WITNESS WHEREOF, The parties hereto have caused these presents to be duly executed the day and year first above written.

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

[illegible] Secretary. By J. P. Kiley President

Witnesses to Signatures of J. P. Kiley and

FALL RIVER CANNING CO. [illegible] Partner

[illegible] E. J. Stoll

[illegible] P. A. Schloss

Attest:

[illegible] Secretary. By [illegible] President

Witnesses to Signatures of W. [illegible] and [illegible] Callahan:

[illegible] Hazel E. Roberts

[illegible] Eileen M. Guenther

AMENDMENT TO INDENTURE OF LEASE

BETWEEN

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

AND

THE FALL RIVER CANNING COMPANY

DATED JUNE 18, 1951.

THIS AGREEMENT, Made this 18 day of June A.D. 1951, by and between CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a corporation of the State of Wisconsin, hereinafter called "Railroad Company," and THE FALL RIVER CANNING COMPANY, a corporation of the State of Wisconsin, of Fall River, Wisconsin, hereinafter called "Lessee,"

WITNESSETH:

WHEREAS, by Indenture of Lease dated February 20, 1951 and bearing Railroad Number 89773 the Railroad Company leased unto said Lessee, for a term of ten (10) years from June 1, 1951, a parcel of land containing 28,188 square feet at Stoughton, Wisconsin, as more particularly described in said Lease, as a site for a canning plant; and

WHEREAS, said Lessee is desirous of obtaining a loan from the Reconstruction Finance Corporation and has requested the Railroad Company for its written consent to the assignment of said lease as security for the aforementioned loan; and

WHEREAS, the Railroad Company deems it advisable for the Lessee to obtain a loan from the Reconstruction Finance Corporation and is willing to modify the lease agreement as hereinafter provided in order to enable the Lessee to consummate such loan;

NOW, THEREFORE, in consideration of the premises and of the sum of ONE DOLLAR ($1.00) by each party in hand paid to the other, the parties hereto hereby agree as follows:

1. That the Railroad Company hereby grants unto the Lessee the right and privilege to assign the Lessee's interest in said Lease No. 89773 to the Reconstruction Finance Corporation. Such assignment may contain provisions acceptable to the assignee to the effect that so long as the assignee has not entered possession of the property covered by the lease it shall not be liable for the performance of any of the obligations, agreements and covenants in said lease contained.

2. That any building or structure now or hereafter erected upon the property covered by said lease and all machinery, equipment, substitutions and additions thereto placed or brought upon the demised premises by the

STATE OF WISCONSIN)
) SS.
COUNTY OF COLUMBIA)

Personally came before me this 25th day of May, 1951, W. W. Evans, President, and Carroll B. Callahan, Secretary of the Fall River Canning Company, to me known to be the persons who executed the foregoing instrument, and to me known to be such President and Secretary of said Corporation and acknowledged that they executed the foregoing instrument as such officers of said Corporation, by it's authority.

Notary Public, Columbia County, Wisconsin My Comm. expires 4/1/52

PERSONALLY came before me this 23rd day of May A.D. 1951, J. P. KILBY, President, and E. V. MORRISS, Secretary of CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, to me known to be the persons who executed the foregoing instrument, and acknowledged that they executed the foregoing instrument as such officers as the deed of said corporation, by its authority.

Notary Public
My Commission expires July 4 A.D. 1953

LEASE No. 89773

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

TO

Fall River Canning Co.

Stoughton, Wisconsin

LEASE

Dated February 20, 1951

Expires on Commencement date June 1, 1951

Rental $341.00 per annum

Payable annually in advance

Taxes payable by lessee

Use a canning plant

Application No. 69004

Noted _____ Div. Engr.

Noted _____ Supt.

Noted _____ Auditor Exp.

State of Wisconsin
DEPARTMENT OF STATE
Received this 25th day of June A.D. 1951 at 10:00 o'clock A.M. and recorded in Vol. 42 Railroad Mortgages on page 424-427 incl.
Walter Zimmerman
Assistant Secretary of State

Lessee irrespective of the manner in which the same may have been or may hereafter be affixed thereto, shall be considered and are hereby declared to be personal property.

3. That the Railroad Company agrees to give the Lessee and the Reconstruction Finance Corporation, after receipt of notice that the lease has been assigned to it, sixty (60) days' written notice of any default under the lease as a condition precedent to terminating the lease before taking any action for the purpose of terminating same for a breach of any of the covenants, agreements and conditions therein or in this agreement contained.

4. That said Lease No. 59773 was executed by the Lessee as "Fall River Canning Co.", whereas the correct corporate name of the Lessee is "The Fall River Canning Company." Said Lease No. 59773 is hereby amended by substituting the correct corporate name of Lessee wherever the incorrect name appears and the execution of this agreement by the Lessee in its proper corporate name shall constitute ratification and acceptance of the original lease agreement in the same manner as though the same had been originally executed by it in its proper corporate name.

5. That the foregoing agreement shall constitute an amendment to said Lease No. 59773, and the provisions hereof shall govern if in conflict with any of the provisions contained in said original lease. Except as herein modified, the original lease shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed as of the day and year first above written.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

In Presence of:

E. P. Johnson

A. E. Nelson

By J. P. Kiley President

Countersigned:

T. W. Burtness Secretary

THE FALL RIVER CANNING COMPANY

In Presence of:

Hazel E. Roberts

Eileen M. Guenther

By W. W. Evans President

Countersigned:

Carroll B. Callahan Secretary

FORM APPROVED
R. W. Ingwaldson
Asst. General Counsel

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STATE OF ILLINOIS }
COUNTY OF C O O K } ss

Personally came before me, this 18th day of June A.D. 1951, J. P. KILEY, president, and T. W. BURTNESS, secretary, of CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, to me known to be the persons who executed the foregoing instrument, and to me known to be such president and secretary of said corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said corporation, by its authority.

A. E. Nelson
Notary Public, Cook County, Illinois
My Commission Expires February 4, 1952

STATE OF WISCONSIN }
COUNTY OF COLUMBIA } ss

Personally came before me, this 8th day of June A.D. 1951, W. W. EVANS, president, and CARROLL B. CALLAHAN, secretary, of THE FALL RIVER CANNING COMPANY, to me known to be the persons who executed the foregoing instrument and to me known to be such president and secretary of said corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said corporation, by its authority.

Hazel E. Roberts
Notary Public, Columbia County, Wisconsin
My Commission Expires [illegible]

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 25th day of June A. D. 1951 at 10:00 o'clock A.M. and recorded in Vol. 42 of Railroad Mortgages on page 429-430, incl.
[illegible]
Assistant Secretary of State

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ASSIGNMENT OF INDENTURE OF LEASE AND AMENDMENT

BY

THE FALL RIVER CANNING COMPANY

TO

RECONSTRUCTION FINANCE CORPORATION

DATED JUNE 20, 1951.

- - - - - - - - - - -

A S S I G N M E N T

WHEREAS under date of February 20, 1951, THE FALL RIVER CANNING COMPANY, a Wisconsin corporation with its principal place of business in Fall River, Wisconsin (hereinafter referred to as "Fall River"), as Lessee, entered into an Indenture of Lease with CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY (hereinafter referred to as "Railroad Company"), as Lessor, under which Indenture of Lease the Railroad Company demised to Fall River the following described premises, to-wit:

A parcel of land located at the Station of Stoughton, County of Dane, State of Wisconsin, described as follows:

Start at the point on the center line of the Railroad Company's most easterly side track, at the southeasterly end of its Freight House, as said facilities are now established upon its station ground property in the Town of Stoughton, in the County and State aforesaid; thence southeasterly along the center line of said track 547 feet; thence northeasterly at right angles 8.5 feet to the point of beginning of the land to be described; thence southeasterly parallel to said track 322 feet; thence northeasterly at right angles 83 feet; thence northwesterly parallel to said track 129 feet; thence southwesterly at right angles 8 feet; thence northwesterly parallel to said track 193 feet; thence southwesterly 75 feet to the point of beginning.

subject to exceptions and reservations specifically enumerated in said Indenture of Lease for a term of ten years commencing on the first day of June, 1951; and

WHEREAS by agreement dated June 18, 1951, entered into between the Railroad Company and Fall River, said Indenture of Lease was amended in certain respects (which Indenture of Lease and amendment thereto are hereinafter referred to as the "Lease"); and

WHEREAS Fall River has heretofore made application with RECONSTRUCTION FINANCE CORPORATION (hereinafter referred to as "RFC") for a loan in the aggregate sum of $550,000.00 which loan has been conditionally approved by RFC; and

WHEREAS said loan is evidenced by a Note dated June 20, 1951, executed and delivered by Fall River to RFC in the aggregate principal amount of $550,000.00 bearing interest at the rate of 5%, said principal and interest being payable as in said Note provided (said Note and any note or notes given in extension or renewal thereof being hereinafter referred to as the "Note"); and

WHEREAS one of the conditions for the making of said loan, or any part thereof, by RFC to Fall River is the assignment by Fall River to RFC of its interest in said Lease as collateral security for the indebtedness evidenced or to be evidenced by the Note.

NOW, THEREFORE, in consideration of the premises and other good and valuable considerations, receipt of which is hereby acknowledged, and as an inducement to RFC to make disbursement of said loan or any part thereof, the undersigned, Fall River, does hereby convey, assign, transfer and set over unto RFC all of its right, title and interest in and to the said Lease.

Notwithstanding anything herein contained to the contrary, this assignment is made upon the express understanding and agreement that so long as the holder of the Note has not entered into possession of the property covered by the Lease, the holder of the Note shall not be liable for the performance of any of the obligations, agreements and covenants, including the obligation to pay rent, made or assumed by Fall River in connection with said Lease, and that Fall River shall, notwithstanding this assignment, remain liable for the performance of all such obligations, agreements and covenants, including the obligation to pay the balance of the rent provided for under the Lease as it accrues.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed by its duly authorized officers and its corporate seal to be hereunto affixed, this 20th day of June, 1951.

THE FALL RIVER CANNING COMPANY

By Wallace W. Evans

Wallace W. Evans, President

ATTEST:

Carroll B. Callahan

Carroll B. Callahan, Secretary

(CORPORATE SEAL)

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

On this 20th day of June, 1951, before me, Howard Meyer Oberndorf, the undersigned officer, personally appeared WALLACE W. EVANS, to me known to be the person who executed the foregoing instrument, who acknowledged himself to be the President of THE FALL RIVER CANNING COMPANY, a corporation, and that he, as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

On this 20th day of June, 1951, before me, Howard Meyer Oberndorf, the undersigned officer, personally appeared CARROLL B. CALLAHAN, to me known to be the person who executed the foregoing instrument, who acknowledged himself to be the Secretary of THE FALL RIVER CANNING COMPANY, a corporation, and that he, as such Secretary, being authorized so to do, countersigned the foregoing instrument for the purposes therein contained.

In witness whereof, I have hereunto set my hand and official seal.

Howard Meyer Oberndorf

Howard Meyer Oberndorf

Notary Public in and for the
County of Cook
State of Illinois
My commission expires September 8, 1954

(NOTARIAL SEAL)

State of Wisconsin ss.
DEPARTMENT OF STATE
Received this 25th day of
June A. D. 1951 at 10:00
o'clock A.M. and recorded in Vol.
42 of Railroad Mortgages
on Page 421-432 incl.
Robert C. Zimmerman
Assistant Secretary of State