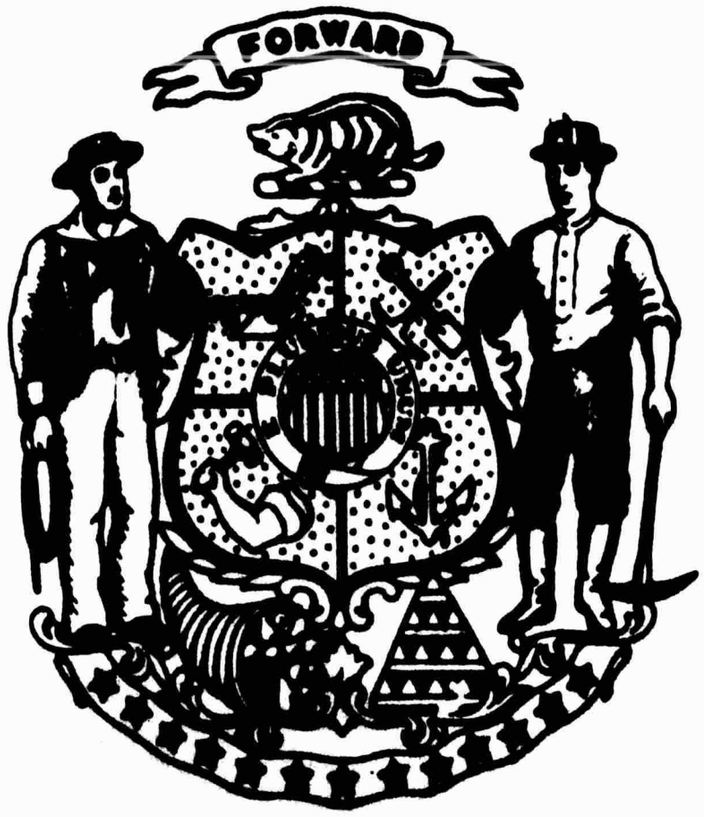
STATE OF WISCONSIN



SECRETARY OF STATE

RAILROAD MORTGAGES

VOL. 43

414.53

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 JJ, (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:

No. of Units	Description Freight-train Cars	Estimated Cost Per Unit	Total
200	41'6", 50-ton, all steel, gondola cars, with drop doors, Nos. 93007 to 93206, both inclusive	$3,975	$ 795,000
2,000	41'6", 50-ton, composite type, gondola cars, Nos. 88950 to 90949, both inclusive..	3,200	6,400,000
50	Cabooses, all steel, Nos. 02015 to 02064, both inclusive	6,900	345,000
	Total estimated cost..		$7,540,000

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 $7,520,000.

In the event that the Vendors shall, as provided in Section 5 of Article I of the Agreement, acquire other new, standard gauge railroad rolling stock in substitution for,

or in addition to, the original Trust Equipment above specifically described, such other new, standard gauge railroad rolling stock shall be included as part of the Trust Equipment and shall be subject to all terms and conditions of this Lease and of the Agreement in all respects as though it had been part of the original Trust Equipment herein described.

As and when the Trust Equipment shall from time to time be transferred and delivered to the Trustee under 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

Executed in 22
Counterparts
Counterpart No 4

CHICAGO. MILWAUKEE. ST. PAUL AND PACIFIC
RAILROAD EQUIPMENT TRUST.
SERIES JJ

Lease of Railroad Equipment

DATED AS OF SEPTEMBER 1. 1949

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

TO

CHICAGO. MILWAUKEE. ST. PAUL AND PACIFIC
RAILROAD COMPANY

Agreement

DATED AS OF SEPTEMBER 1. 1949

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 GUNTHORP-WARREN PRINTING COMPANY, 210 WEST JACKSON, CHICAGO

LEASE OF RAILROAD EQUIPMENT, dated as of September 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 September 1, 1949, between 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 JJ," 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

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 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 (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, 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 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 JJ, 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 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 re-

quired 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 ¼ 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, war-

ranty 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 JJ, 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 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 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 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. If the Trustee shall receive an opinion of counsel that such proposed action will not impair its title to the Trust Equipment and if in the judgment of the Trustee such action will not be otherwise detrimental to the interests of the Trust Certificate holders, it may, on written request of the Railroad Company setting forth the 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 breach of this covenant, but the appointment of a receiver or receivers or a trustee or trustees in bankruptcy for the Railroad Company, or its property, or the filing of a voluntary petition under the Bankruptcy Act, shall be deemed an unauthorized assignment by the Railroad Company of its rights and interests in the Trust Equipment and shall be deemed a breach of this covenant, unless (a) any such receiver or receivers, or trustee or trustees, shall have been discharged within sixty (60) days after his or her appointment, or within a like period shall have assumed and agreed to perform each and all of the obligations and

covenants of the Railroad Company 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 (b) any such petition shall have been withdrawn and proceedings thereon terminated within a like period.

Seventh. In case the Railroad Company

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

(2) shall make or suffer any unauthorized assignment or transfer of its rights or interest in, or any unauthorized sublease of, or, except as herein authorized, part with the possession of, the Trust Equipment, or any thereof, and shall fail or refuse either to cause such assignment or transfer or sublease to be canceled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within thirty days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said thirty days to deposit with the Trustee a sum in cash equal to the actual cost of the Trust Equipment so assigned or transferred or subleased, or the possession of which shall have been so parted with, as certified to the Trustee pursuant to Section 4 of Article I of the 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 a Vice-President or the 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 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 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 the 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 the 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 owners of interests in said Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series JJ; 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 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 and in such order as may be deemed expedient. 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 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 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,
As Trustee,

By R. M. Kimball
R. M. Kimball,
Vice-President.

Attest:

V. P. Nelson
V. P. Nelson,
Assistant Secretary.

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

E. W. Lueders
E. W. Lueders

E. W. Fairbenbach
E. W. Fairbenbach

Attesting Witnesses.

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

By J. W. Severs
J. W. Severs,
Vice-President.

Attest:

Vila M. Graves
Vila M. Graves,
Assistant Secretary.

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

M. E. Sharp
M. E. Sharp

Ruth E. Hall
RUTH E. HALL

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 this 7th day of September, 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, As-

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

STATE OF ILLINOIS,
COOK COUNTY. } ss.

I, [illegible], County Clerk of the County of Cook, State of Illinois, do hereby certify that I am the lawful custodian of the official [illegible] of said County, and have in my custody the [illegible] and seal of said County, and that I am duly authorized by law to have custody of the same, and to make certification of impressions, thereof.

[illegible]

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said County of Cook at my office in the City of Chicago, in the said County, this [illegible] day of [illegible] A.D.

[illegible]

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 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 JJ, 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 Cer-

tificates), 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.

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 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 mortgage 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 September 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 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 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 $7,520,000, 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 $7,520,000.

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

SECTION 6. The Trustee shall, on request of the Railroad Company, invest and keep invested all, or such part of the Deposited Cash not needed by it to pay for Trust Equipment delivered or about to be delivered, as may be designated by the Railroad Company, in such United States Government securities as it may designate. The Trustee, with or without the request of the Railroad Company, may from time to time sell, at the prevailing market prices, such amount of such securities as it may deem necessary to provide cash to pay for Trust Equipment delivered, or about to be delivered, and may, with or without such request, at any time or from time to time, sell at such prices, all or part of such securities, if by reason of a declining market therefor, it believes there is danger of the securities going below par. The Trustee shall sell any such United States Government securities, held by it, when directed by the Railroad Company. The Railroad Company covenants and agrees that, if the selling price of said securi-

ties, 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 $5,640,000 at any one time outstanding (subject, however, to the provisions of Section 6 of Article II of this Agreement).

SECTION 8. Any moneys held by the Trustee after delivery of and payment for all of the Trust Equipment, the disposition of which is not herein or in 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 2¼ per cent per annum from September 1, 1949, payable semiannually on the first day of March and September in each year. $188,000 principal amount of the Trust Certificates shall become

due and payable on March 1 and September 1 in each year beginning on March 1, 1950, and ending on September 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 5,640, 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. 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 JJ

Total Issue not to exceed $5,640,000.

Dividends at the rate of 2⅛ Per Cent per Annum. Payable March 1 and September 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 September 1, 1949 (hereinafter referred to as the "Agreement"), between 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 JJ, 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 September 1, 1949, to said date of maturity, payable semiannually on March first and September 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 September 1, 1949.

This certificate is one of an issue of certificates, in bearer form, in an aggregate principal amount not exceeding $5,640,000, substantially identical except as to dates of maturity, all issued or to be issued under the 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 the Agreement) and the 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 the 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 or thereof 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 the 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 the 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 September, 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 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 semiannual dividend then due on, Certificate No. ..... of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series JJ, 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 and one-eighth per cent per anum 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 any present or future Assistant Secretary of the Trustee, and the Trustee may adopt and use for that purpose any such facsimile signature notwithstanding the fact that any 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 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 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 divi-

dends thereon in like coin or currency at the rate of 2⅛ per cent per annum from September 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 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 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 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 pro-

vided to take all steps for the protection and enforcement of its rights and the rights of the bearers of the Trust Certificates, and to exercise one or more of the powers of entry, sale or lease in 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 September 1, 1964, 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 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 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 condititons 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 (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 expenses of the trust, including the proper com-

pensation 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 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 thereon, 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, insofar 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 Equip-

ment 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 any obligation to see to the use, appropriation or application of moneys at any time paid out by it in conformity herewith.

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 [illegible] ment 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 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.

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 terms "Trustee" and "Railroad Company" as used herein and in the Lease shall be held and construed to mean, respectively, Continental Illinois National Bank and Trust Company of Chicago, its successors and assigns, and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, its successors and assigns. The term "Trust Equipment" whenever 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. The terms "Trust Certificate" or "Trust Certificates", whenever used herein or in the Lease, include, unless the context otherwise indicates, both temporary and definitive certificates. The term "State" whenever used herein or in the 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 to or made upon 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.

(L. S.)
H. J. Groener,

(L. S.)
H. H. Conley

Signed, sealed and delivered by H. J. Groener and H. H. Conley in the presence of:

E. W. Lueders

E. W. Fairbrother

Attesting Witnesses.

Continental Illinois National Bank and Trust Company of Chicago,
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:

E. W. Lueders

E. W. Fairbrother

Attesting Witnesses.

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

By

J. W. Severs,
Vice-President.

Attest:

Vila M. Graves

Vila M. Graves,
Assistant 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.

Form 270

STATE OF ILLINOIS, } ss.
COOK COUNTY.

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, Do Hereby Certify that I am the lawful custodian of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of magistracy, that W. G. Everist whose name is subscribed to the annexed jurat, was at the time of signing the same a Notary Public in Cook County, duly commissioned, sworn and qualified to act as such, and authorized to administer oaths and take affidavits in said State of Illinois, all of which appears from the records in my office; that I am well acquainted with the handwriting of said Notary, and verily believe that the signature to the said jurat is genuine.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the County of Cook at my office in the City of Chicago, in the said County, this 7 day of Sept. in 49

Michael J. Flynn County Clerk.

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

I, W. G. EVERIST, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements, and hereditaments in said County, do hereby certify that on the 7th day of September, 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 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

APRIL 9, 1952

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 7th day of September, 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
APRIL 9, 1952

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

STATE OF ILLINOIS, }
COOK COUNTY. } ss.

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, in the State aforesaid, and keeper of the records and seal thereof, do hereby certify that I am the lawful custodian of the official records of the Board of County Commissioners of said County, and that I compare the annexed and foregoing copy of a certain instrument of writing, filed in my office on the 8th day of September, A.D., 1949, at 10:00 o'clock A.M., and recorded in Vol. 43 of Public Office Records, on Pages 1-34, inclusive, with the original thereof on file in said County and State, and that the annexed and foregoing is a true and correct copy thereof and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County Court of said County, at my office in the City of Chicago, in the said County, this 7 day of Sept A.D. 19 49

Michael J. Flynn
County Clerk

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

I, R. W. SPANGENBERG, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements, and hereditaments in said County, DO HEREBY CERTIFY that on the 2nd day of September, 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 Vila M. Graves, to me personally known and known to me to be respectively, a Vice-President and an Assistant Secretary of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the corporation described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice-President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said J. W. Severs and Vila M. Graves, being by me severally duly sworn, did on oath, each for himself and for herself 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 Vila M. Graves resides in Park Ridge in the State of Illinois; that said J. W. Severs is a Vice-President and said Vila M. Graves is an Assistant Secretary of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the corporation described in and which executed the within and foregoing instrument in writing; that they, said J. W. Severs, Vice-President, and Vila M. Graves, Assistant Secretary, know

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

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

My commission as such Notary Public expires
November 17, 1961

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

STATE OF WISCONSIN }
Department of State } ss.

Received this 8th day of September, A.D., 1949, at 10:00 o'clock A.M., and recorded in Vol. 43 of Railroad Mortgages on Pages 1-34, inclusive.

Thos. R. Zimmermann
Secretary of State

STATE OF ILLINOIS, }
COOK COUNTY. } ss.

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, in the State aforesaid, and keeper of the records and seal thereof, do hereby certify that I am the lawful custodian of the official records of the Board of County Commissioners of said County, and that I compare the annexed and foregoing copy of a certain instrument of writing, filed in my office on the 8th day of September, A.D., 1949, at 10:00 o'clock A.M., and recorded in Vol. 43 of Public Office Records, on Pages 1-34, inclusive, with the original thereof on file in said County and State, and that the annexed and foregoing is a true and correct copy thereof and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County Court of said County, at my office in the City of Chicago, in the said County, this 7 day of Sept A.D. 19 49

Michael J. Flynn
County Clerk

Executed in 22
Counterparts
Counterpart No 4

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

Lease of Railroad Equipment

DATED AS OF OCTOBER 1, 1949

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

TO

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

Agreement

DATED AS OF OCTOBER 1, 1949

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

LEASE OF RAILROAD EQUIPMENT, dated as of October 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 October 1, 1949, between 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 KK", 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 railroad equipment of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series KK, (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:

No. of Locomotives	Description	Estimated Cost Per Unit	Estimated Cost Total
	Diesel-electric freight locomotives		
3	4500 H. P. Diesel-electric freight locomotives, each comprised of a lead unit, a booster unit, and a lead unit, and numbered, respectively, 87A and 87B and 87C to 89A and 89B and 89C, both inclusive ...	$483,244.33	$1,449,732.99
1	1500 H. P. Diesel-electric freight locomotive, consisting of a lead unit and numbered 86A ..	166,150.11	166,150.11
6	4500 H. P. Diesel-electric freight locomotives, each comprised of a lead unit, a booster unit, and a lead unit, and numbered, respectively, 74A and 74B and 74C to 79A and 79B and 79C, both inclusive	483,244.33	2,899,465.98
	Diesel-electric road switching locomotives		
3	1000 H. P. Diesel-electric road switching locomotives, Nos. 961 to 963, both inclusive	109,485.31	328,455.93

No. of Locomotives	Description	Estimated Cost Per Unit	Estimated Cost Total
	Diesel-electric transfer locomotives		
1	2000 H. P. Diesel-electric transfer locomotive, comprised of a lead unit and a booster unit, and numbered, respectively, 2000A and 2000B	199,413.06	199,413.06
	Diesel-electric switching locomotives		
4	1000 H. P. Diesel-electric switching locomotives, Nos. 1901 to 1904, both inclusive	98,532.00	394,128.00
6	1000 H. P. Diesel-electric switching locomotives, Nos. 1820 to 1825, both inclusive	98,123.00	588,738.00
24	Total estimated cost ...		$6,026,084.07

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 $6,000,000.

In the event that the Vendors shall, as provided in Section 5 of Article I of the Agreement, acquire other new,

standard gauge railroad rolling stock in substitution for, or in addition to, the original Trust Equipment above specifically described, such other new, standard gauge railroad rolling stock shall be included as part of the Trust Equipment and shall be subject to all 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 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.

(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 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 KK, 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 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 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 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, how-

ever, 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 KK, 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 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 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 General Superintendent Locomotive Department or an Assistant Superintendent Locomotive 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 re-

painted 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. If the Trustee shall receive an opinion of counsel that such proposed action will not impair its title to the Trust Equipment and if in the judgment of the Trustee such action will not be otherwise detrimental to the interests of the Trust Certificate holders, it may, on written request of the Railroad Company setting forth the 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 breach of this covenant, but the appointment of a receiver or receivers or a trustee or trustees in bankruptcy for the Railroad Company, or its property, or the filing of a voluntary petition under the Bankruptcy Act, shall be deemed an unauthorized assignment by the Railroad Company of its rights and interests in the Trust Equipment and shall be deemed a breach of this covenant, unless (a) any such receiver or receivers, or trustee or trustees, shall have been discharged within sixty (60) 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 of the Railroad Company 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 (b) any such petition shall have been withdrawn and proceedings thereon terminated within a like period.

Seventh. In case the Railroad Company

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

(2) shall make or suffer any unauthorized assignment or transfer of its rights or interest in, or any unauthorized sublease of, or, except as herein authorized, part with the possession of, the Trust Equipment, or any thereof, and shall fail or refuse either to cause such assignment or transfer or sublease to be canceled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within thirty days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said thirty days to deposit with the Trustee a sum in cash equal to the actual cost of the Trust Equipment so assigned or transferred or subleased, or the possession of which shall have been so parted with, as certified to the Trustee pursuant to Section 4 of Article I of the 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 a Vice-President or the 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 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 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 the 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 the 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 owners of interests in said Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series KK; 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 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 and in such order as may be deemed expedient. 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 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 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,
As Trustee,

By R. M. Kimball
R. M. Kimball,
Vice-President.

Attest:

E. J. Friedrich
E. J. Friedrich,
Assistant Secretary.

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

E. W. Luebers
E. W. Luebers,

V. L. Bedingfield
V. L. Bedingfield,
Attesting Witnesses.

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

By J. W. Severs
J. W. Severs,
Vice-President.

Attest:

T. W. Burtness
T. W. Burtness,
Secretary.

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

Ruth E. Hall
Ruth E. Hall,

C. G. Metzler
C. G. Metzler,
Attesting Witnesses.

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

I, Arthur A. Wuerffel, 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 October, 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 E. J. Friedrich, each to me personally known and known to me to be, respectively, a Vice-President and an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, the corporation described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice-President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and said R. M. Kimball and E. J. Friedrich, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that said R. M. Kimball resides in Evanston, in the State of Illinois, and that said E. J. Friedrich resides in Elmhurst, in the State of Illinois, that said R. M. Kimball is a Vice-President and said E. J. Friedrich is an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, the corporation described in

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

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

My commission as such Notary Public expires October 16, 1950.

Arthur A. Wuerffel

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

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 10th day of October, 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 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 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 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. W. Spangenberg,
Notary Public in and for the State of Illinois, County of Cook.

THIS AGREEMENT, dated as of October 1, 1949, by and between **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 $4,500,000 to a fund to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series KK, 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 $4,500,000 in thirty semiannual installments of $150,000 each, payable respectively on April 1st and October 1st, in each year, beginning on April 1, 1950, and ending on October 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 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 KK, 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 Cer-

tificates), 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.

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 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 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

(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.

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

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

Section 6. The Trustee shall, on request of the Railroad Company, invest and keep invested all, or such part of the Deposited Cash not needed by it to pay for Trust Equipment delivered or about to be delivered, as may be

designated by the Railroad Company, in such United States Government securities as 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 $4,500,000 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 in-

stallment 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 2¼ per cent per annum from October 1, 1949, payable semiannually on the first day of April and October in each year. $150,000 principal amount of the Trust Certificates shall become due and payable on April 1 and October 1 in each year beginning on April 1, 1950, and ending on October 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 4,500, 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. 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 KK

Total Issue not to exceed $4,500,000.

Dividends at the rate of Two and One-Fourth 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, 1949 (hereinafter referred to as the "Agreement"), between 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 KK, 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, 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, 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, 1949.

This certificate is one of an issue of certificates, in bearer form, in an aggregate principal amount not exceeding $4,500,000, substantially identical except as to dates of maturity, all issued or to be issued under the 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 the Agreement) and the 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 the 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 or thereof 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 the 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 the 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, 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 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, being the semiannual dividend then due on Certificate No. _____ of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series KK, 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 and one-fourth per cent (2¼%) 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 any present or future Assistant Secretary of the Trustee, and the Trustee may adopt and use for that pur-

pose any such facsimile signature notwithstanding the fact that any 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 pre-

pared. 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.

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, 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); 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 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 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 October 1, 1964, 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 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 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 (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 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;

(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, insofar 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, 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 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 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.

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 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.

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 terms "Trustee" and "Railroad Company" as used herein and in the Lease shall be held and construed to mean, respectively, Continental Illinois National Bank and Trust Company of Chicago, its successors and assigns, and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, its successors and assigns. The term "Trust Equipment" whenever 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. The terms "Trust Certificate" or "Trust Certificates", whenever used herein or in the Lease, include, unless the context otherwise indicates, both temporary and definitive certificates. The term "State" whenever used herein or in the 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 to or made upon 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.

H. J. Groener (L. S.)

H. J. Groener

H. H. Conley (L. S.)

H. H. Conley.

Signed, sealed and delivered by H. J. Groener and H. H. Conley in the presence of:

E. W. Lueders,

V. L. Bedingfield,

Attesting Witnesses.

Continental Illinois National Bank and Trust Company of Chicago,

As Trustee,

By R. M. Kimball,

Vice-President.

Attest:

E. J. Friedrich,

Assistant Secretary.

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

E. W. Lueders,

V. L. Bedingfield,

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:

_____
RUTH E. HALL,

_____
C. G. METZLER,
Attesting Witnesses.

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

I, Arthur A. Wuerffel, 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 10th day of October, 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 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 16, 1950.

_____
ARTHUR A. WUERFFEL,
Notary Public in and for the State of Illinois, County of Cook.

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

I, Arthur A. Wuerffel, 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 10th day of October, 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 E. J. Friedrich, to me personally known and known to me to be, respectively, a Vice-President and an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, the corporation described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice-President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and said R. M. Kimball and E. J. Friedrich, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that said R. M. Kimball resides in Evanston, in the State of Illinois, and that said E. J. Friedrich resides in Elmhurst, in the State of Illinois; that said R. M. Kimball is a Vice-President, and said E. J. Friedrich is an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, the corporation described in and which executed the within and foregoing instrument in writing; that they, said R. M. Kimball, Vice-President and E. J. Friedrich, Assistant Secretary, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto by order and authority of the Board of Directors of said corporation; that they and each of them signed their names to, and executed, the foregoing instrument in their respective capacities as Vice-President and Assistant Secretary in behalf of said corporation by like order and authority; that they signed, sealed with the corporate seal, executed and delivered said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and that they severally duly acknowledged said instrument to be the free and voluntary act and deed of said corporation and that said corporation executed the same.

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

My commission as such Notary Public expires October 16, 1950.

_____
ARTHUR A. WUERFFEL,
Notary Public in and for the State of Illinois, County of Cook.

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

I, R. W. Spangenberg, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements, and hereditaments in said County, DO HEREBY CERTIFY that on the 10th day of October, 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, 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 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 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 cor-

poration; 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.

Order No. 271

IN THE

DISTRICT COURT OF THE UNITED STATES

FOR THE DISTRICT OF MINNESOTA

FOURTH DIVISION

In Proceedings for the Reorganization of a Railroad

No. 13310

In the Matter of

THE DULUTH, SOUTH SHORE AND ATLANTIC RAILWAY COMPANY,
Principal Debtor,

AND

MINERAL RANGE RAILROAD COMPANY,
Subsidiary Debtor.

CONSUMMATION ORDER AND FINAL DECREE

This cause coming on for hearing on the petition of the Reorganization Managers for the consummation order and final decree, and due notice of said petition and of this hearing having been served and published as directed in the order entered by the Court in these proceedings on October 17, 1949, the Court, being fully advised in the premises,

FINDS:

A. The Plan of Reorganization for The Duluth, South Shore and Atlantic Railway Company, Principal Debtor, a

consolidated corporation of the States of Michigan and Wisconsin, and Mineral Range Railroad Company, Subsidiary Debtor, a corporation of the State of Michigan, was duly confirmed by the order of this Court entered in these proceedings on March 19, 1949, and said order has become final in all respects.

B. Pursuant to the Plan, Henry S. Mitchell, Peter N. Todhunter, and J. A. Dundas were duly designated as Reorganization Managers, and such designations were approved by the order of the Court entered in these proceedings on April 21, 1949. The persons so designated and approved will be referred to hereinafter as the Managers.

C. Pursuant to the order of the Court entered in these proceedings on August 18, 1949, the Managers filed an application with the Interstate Commerce Commission on August 22, 1949, for an order authorizing and approving the transfer of the properties of the Debtors to the reorganized company and the issuance of securities and assumption of obligations and liabilities by the reorganized company as contemplated by the Plan of Reorganization. On September 20, 1949, the Commission issued its report and order granting the authority requested in the Managers' application.

D. By order entered in these proceedings on October 18, 1949, the Court approved the determination of the Managers that the reorganized company should be a corporation of the State of Minnesota under the name Duluth, South Shore and Atlantic Railroad Company, approved the proposed Articles of Incorporation and By-Laws, and directed that the proposed corporation be organized under the laws of the State of Minnesota and qualified to transact business as a foreign railroad corporation in such states as

might be required by law. Pursuant to said order the Managers have caused the Articles of Incorporation of Duluth, South Shore and Atlantic Railroad Company (hereinafter referred to as the New Company) to be executed, acknowledged, and filed with the Secretary of State of Minnesota, and the New Company has become the reorganized company under the Plan; the By-Laws have been duly adopted; the New Company has filed in these proceedings a statement adopting the Plan and submitting to the jurisdiction of this Court, has filed with the Interstate Commerce Commission a joinder in the Managers' application for authority to consummate the Plan, and has taken the necessary steps to qualify as a foreign corporation where required by law; and the New Company has issued to a nominee of the Managers, for a cash consideration of $60 a share, 20 of its Common Shares, for the purpose of providing it with the minimum amount of stated capital with which to begin business, as required by Minnesota law. The Managers propose, subject to the approval of the Court, that the members of the first Board of Directors named in the Articles of Incorporation, except Henry S. Mitchell, shall resign, upon consummation of the Plan, and that the following persons shall be elected to fill the vacancies so created and to serve with Mr. Mitchell as directors until the first annual meeting of the shareholders of the New Company in April 1950: R. S. Archibald, Endicott R. Lovell, Ward R. Schafer, Harry B. Stoker, Peter N. Todhunter, N. R. Crump, J. A. Dundas, and Herman F. Schmidt.

E. As authorized by the Plan, the Managers have determined, subject to the approval of the Court: (1) that the new First Mortgage 4% Income Bonds, Series A, shall be in fully registered form, dated as of the date of authentication and bearing contingent interest from January 1, 1949 (ex-

cept to the extent paid on or before the date thereof on a principal sum equivalent to the principal sum thereof), and that cash in lieu of and equivalent to interest at the rate of 4% per annum on the principal amount of said bonds for the years 1945, 1947, and 1948, which the accounts of the trustee of the Debtors' properties show to have been fully earned, shall be distributed with the bonds; (2) that no cash shall be distributed in respect of the year 1946, since the accounts of the trustee of the Debtors' properties show that no interest was earned for that year on the principal amount of said bonds; and (3) that the distribution of cash provided in the Plan for all holders of First Mortgage Five Per Cent. Gold Bonds of the Principal Debtor shall be made at the rate of $125.45 per $1,000 principal amount of said bonds.

F. By order entered herein on October 17, 1949, the Managers were authorized and directed to file with the Clerk of the Court copies of certain documents prepared for use in the consummation of the Plan, and said documents are now on file with the Clerk, numbered as follows:

1. Deed to the New Company from the trustee of the properties of the Debtors;

2. Instruments of satisfaction and release of the following mortgages:

(a) First Mortgage of The Duluth, South Shore and Atlantic Railway Company;

(b) First Consolidated Four Per Cent. One Hundred Year Gold Mortgage of The Duluth, South Shore and Atlantic Railway Company and others;

(c) Six Per Cent. Mortgage of 1885 of Marquette, Houghton and Ontonagon Railroad Company and Marquette and Western Railroad Company;

(d) General Mortgage of 1886 of Mineral Range Railroad Company;

(e) Consolidated Mortgage of Mineral Range Railroad Company;

(f) General Mortgage of 1901 of Mineral Range Railroad Company;

(g) Consolidated Mortgage of Hancock and Calumet Railroad Company.

3. First Mortgage of the New Company, including therein the form of the First Mortgage 4% Income Bonds, Series A, to be issued thereunder;

4. Specimen certificate for Common Shares of the New Company;

5. Exchange Agency Agreement; and

6. General Notice of Exchange of Securities.

G. By Order No. 179 entered in these proceedings on December 4, 1944, the Court provided that the holders of Mineral Range Railroad Company General Four Per Cent. Fifty Year Gold Bonds, due October 1, 1936, and all other persons having any claim against the Subsidiary Debtor based on its General Mortgage of 1886 or on any of said bonds, should file their claims in these proceedings on or before February 1, 1945, and that all claims based upon said bonds and said mortgage, unless so filed, and the holders thereof, should be forever barred from participating in the reorganization of the Subsidiary Debtor in these proceedings or in the distribution of assets or securities. Notice of the entry of said order was mailed and published as required therein. In December 1944, after the entry of said order, $248,000 principal amount of said bonds that had been acquired by the Subsidiary Debtor prior to the institution of these proceedings were duly surrendered by

3. *Transfer of Properties.* Except as otherwise provided in this order, at 12:01 A.M., Central Standard Time, on November 1, 1949 (referred to in this order as the Consummation Date), all of the business and affairs of the Principal Debtor and the Subsidiary Debtor, and all right, title, and interest of the Principal Debtor, the Subsidiary Debtor, and the trustee of their properties, in and to their several properties of every kind and description, whether real, personal, or mixed, whether tangible or intangible, and whether of present or future interests, and all rights, privileges, and franchises of the Principal Debtor and the Subsidiary Debtor shall, the laws of any state or the decisions or orders of any state authority to the contrary notwithstanding, vest in and become the absolute property of Duluth, South Shore and Atlantic Railroad Company (referred to in this order as the New Company), a corporation organized and existing under the laws of the State of Minnesota, free and clear of all rights, claims, interests, liens, and encumbrances of the creditors of the Principal Debtor and the Subsidiary Debtor and of the holders of the shares of capital stock of the Principal Debtor and the Subsidiary Debtor, and except as otherwise provided in this order the Principal Debtor and the Subsidiary Debtor shall thereupon be released and discharged forever from all of their debts and liabilities, whether or not the same shall have been presented or allowed as claims in these proceedings. The New Company and its property shall also be free and clear of all such rights, claims, interests, liens, encumbrances, debts, obligations, and liabilities, except as otherwise provided in this order.

4. *Confirmatory Deed.* In furtherance and confirmation of the transfer and vesting of property decreed in the foregoing paragraph 3, the trustee of the properties of the

the trustee of the property of the Subsidiary Debtor to City Bank Farmers Trust Company, the trustee under said General Mortgage of 1886, and were cancelled by said mortgage trustee. No claim was filed in these proceedings, as permitted and required by Order No. 179, on or before February 1, 1945, and none has been filed since that date; therefore, pursuant to Order No. 179, all claims based upon said bonds and mortgage, and the holders thereof, including speciflically any and all claims based upon the remaining $3,000 principal amount of said bonds that have not been surrendered to said mortgage trustee and cancelled, and the holder or holders thereof, are forever barred from participating in the reorganization of the Subsidiary Debtor in these proceedings and in the distribution of assets or securities.

B. The issuance by the New Company, pursuant to the Plan of Reorganization, of its First Mortgage 4% Income Bonds, Series A, due January 1, 1996, and the issuance of its Common Shares, are subject to the provisions of Section 20a of the Interstate Commerce Act and Section 77(f) of the Bankruptcy Act, and the authorization for such issuance granted by the Interstate Commerce Commission in the report and order entered in its Finance Docket No. 11484 on September 20, 1949, satisfies the requirements of said Section 20a and Section 77(f).

I. The issuance, transfer, and exchange of securities, and the execution, delivery, filing, and recording of documents, as provided for in this order and in the documents hereinafter approved, are all pursuant to the Plan of Reorganization for the Principal Debtor and the Subsidiary Debtor, which has been confirmed by this Court in accordance with the provisions of Section 77 of the Bankruptcy Act, and are for the purpose of carrying out and putting

into effect said Plan, and no further authorization or approval thereof is required.

It Is Therefore Ordered and Decreed:

1. *Approval of Documents and Forms of Securities.* The documents and forms of securities referred to in paragraph F of this order, and the determinations made by the Manager as recited in paragraph E of this order, are hereby in all respects approved. The Manager' selection of directors of the New Company to succeed the first directors upon consummation of the Plan, as recited in paragraph D of this order, is hereby approved.

2. *General Authorization to Proceed with Consummation of Plan.* The Manager and the New Company are hereby authorized and directed to proceed with and complete the consummation of the Plan in accordance with the terms and provisions thereof, of this order, and of the documents approved in paragraph 1 of this order, and to take all action necessary or appropriate to that end not inconsistent with the orders of this Court or the Plan. Pending his discharge pursuant to the further order of this Court, the trustee of the properties of the Debtors is authorized and directed to cooperate with the Manager and the New Company to the extent necessary to facilitate the consummation of the Plan. The Manager and the New Company shall have full power and authority to carry out the Plan and the orders of this Court and the Interstate Commerce Commission relative thereto, to participate in such proceedings, file such appearances, execute and file for record or otherwise such pleadings, papers, and other documents, and take any and all other such action, as may be necessary or appropriate to accomplish the consummation of the Plan, the laws of any state to the contrary notwithstanding.

Debtors shall execute and deliver a deed in the form of Document 1 listed in paragraph F of this order. The said trustee is further authorized and directed thereafter to execute and deliver all such other conveyances, bills of sale, assignments, and other instruments as may be necessary or proper to convey, assign, and transfer all of the right, title, and interest of the Principal Debtor and the Subsidiary Debtor and said trustee in and to the properties vested in the New Company by paragraph 3 of this order.

5. *Cancellation of Existing Mortgages.* The mortgages listed in paragraph F of this order, numbered 2(a) to 2(E), and all indentures and agreements supplemental or amendatory thereto, are hereby declared to be, as of the Consummation Date, null and void, satisfied, and released, and the bonds and coupons secured thereby or issued thereunder shall thereafter (except as otherwise provided in paragraph 16 of this order with respect to certain unclaimed interest moneys) be void and of no effect as claims against the Principal Debtor or the Subsidiary Debtor or any of their properties, except to entitle the holders thereof to receive the new bonds and cash distributable to them in respect of such old bonds under the provisions of the Plan and this order.

6. *Confirmatory Instruments of Satisfaction and Release.* (a) In continuation of the termination of the aforesaid mortgages and the respective liens thereof, the trustees now acting under said mortgages are hereby authorized and directed, severally and respectively, to execute and deliver instruments of satisfaction and release substantially in the forms set forth for each of said mortgages in Documents 2(a) to 2(E) listed in paragraph F of this order. Whether executed before or after the Consummation Date, each such satisfaction and release shall be effec-

tive as of the Consummation Date, and as of that time each of said trustees shall be discharged as a trustee and relieved of all of its obligations, liabilities, responsibilities, and duties with respect to the particular mortgage, and all indentures and agreements supplemental thereto, under which it is acting as trustee. Each of said trustees is further authorized and directed to transfer, convey, and deliver or release to or upon the order of the New Company all shares of stock, evidences of indebtedness and other securities, all money, credits, choses in action, and all other property, rights, and interests of every kind or description held by it as trustee as aforesaid, and to execute and deliver upon the request of the Managers or the New Company any additional conveyances, bills of sale, assignments, or other instruments that may be necessary or proper to accomplish and evidence the satisfaction, release, and cancellation of its respective mortgage and any indentures and agreements supplemental thereto. The said trustees are directed to execute their respective releases and other instruments as aforesaid, and to surrender property as aforesaid now held by them as trustees under their respective mortgages, for the sole and express purpose of remising, releasing, conveying, and quitclaiming whatever interest such trustees have as trustees under their respective mortgages and indentures supplementary or amendatory thereto, and no personal covenant or liability shall be implied against or be assumed or undertaken by any trustee executing any such release or other instrument pursuant to this order, by reason of such execution or of any covenant in any instrument so executed, except as may be expressly provided in such instrument.

(b) Any and all funds held on the Consummation Date by The First National Bank and Trust Company of Mar-

quette in any special account or accounts created pursuant to any order or orders entered in these proceedings, including Order No. 25, dated August 19, 1937, and consisting of proceeds of mortgaged property disposed of by the trustees of the Debtors' properties, shall at that time vest absolutely and without restriction in the New Company and be payable thereafter to or upon its order.

7. *Repurchase of 20 Common Shares by the New Company and Issuance of 210,000 Common Shares.* The 20 Common Shares of the New Company, without par value, which were issued to a nominee of the Managers for a consideration of $50 a share in cash, for the purpose of providing it with the minimum amount of stated capital with which to begin business, pursuant to the order entered herein on October 18, 1949, shall at the direction of the Managers be repurchased by the New Company at the price paid therefor and shall thereafter be included in the 210,000 Common Shares of the New Company, without par value, which the New Company shall, at the direction of the Managers, issue and deliver to Canadian Pacific Railway Company as a part of the new securities to which it is entitled under the Plan in exchange for and upon surrender to the New Company of the following securities of the Principal Debtor and the Subsidiary Debtor held by it:

(a) $801,000 principal amount of First Mortgage Five Per Cent. Gold Bonds of the Principal Debtor, due January 1, 1937, including $134,000 principal amount deposited and pledged under the First Consolidated Four Per Cent. One Hundred Year Gold Mortgage of the Principal Debtor, the beneficial interest in which Canadian Pacific Railway Company shall release to the New Company;

(b) $15,107,000 principal amount of First Consoli-

dated Four Per Cent. One Hundred Year Gold Bonds of the Principal Debtor, due August 1, 1990;

(c) $1,400,000 principal amount of Six Per Cent. Mortgage Bonds of Marquette, Houghton and Ontonagon Railroad Company, due by extension on January 1, 1937, which the Principal Debtor assumed, including $323,000 principal amount deposited and pledged under the First Consolidated Four Per Cent. One Hundred Year Gold Mortgage of the Principal Debtor, the beneficial interest in which Canadian Pacific Railway Company shall release to the New Company;

(d) $325,000 principal amount (reduced by cash payment to $180,375) of Consolidated Five Per Cent. Forty Year Gold Bonds of Hancock and Calumet Railroad Company, due January 1, 1931, which the Subsidiary Debtor assumed;

(e) $569,000 principal amount (reduced by cash payment to $412,300) of Consolidated Five Per Cent. Forty Year Gold Bonds of the Subsidiary Debtor, due January 1, 1931 (including $254,000 principal amount, reduced by cash payment to $177,800, on which the annual interest rate was reduced from 5% to 4%); and

(f) $1,000,000 principal amount of General Four Per Cent. Fifty Year Gold Bonds of the Subsidiary Debtor, due January 1, 1951.

8. *Execution of First Mortgage.* The New Company is hereby authorized and directed to execute and deliver, in the form of Document 3 listed in paragraph F of this order, its First Mortgage to Central Hanover Bank and Trust Company, Trustee, dated as of January 1, 1949, and to deposit and pledge with said trustee the securities listed in Granting Clause Sixth of said First Mortgage. Central Hanover Bank and Trust Company is authorized and directed to execute and become a party to said First Mortgage as trustee thereunder.

9. *Protection of First Mortgage Lien Between Consummation Date and Date of Actual Recording and Filing.* The First Mortgage of the New Company, executed pursuant to paragraph 8 of this order, shall be and become effective as of the Consummation Date, whether actually executed and delivered before or after that date. The lien of said mortgage shall attach on the Consummation Date and be effective thereafter against, and be prior to, any other liens attaching to any of the property subject to the lien of said mortgage in the interval between the Consummation Date and the recording or filing for record of such mortgage or the deposit and pledge of collateral thereunder and prior to the termination of these proceedings, unless any such other lien so attaching would be prior to the lien of said mortgage if it were already recorded or filed for record or if the pledge thereunder were already made. This Court reserves its exclusive jurisdiction over the entire property and estate to be vested in the New Company as provided in this order, and over any claims to liens which may be asserted against the same, to the extent necessary to give effect to the provisions of this paragraph 9.

10. *Issuance of First Mortgage 4% Income Bonds, Series A.* The New Company shall execute, issue, and deliver, or cause to be issued and delivered, in accordance with the provisions of the Plan and this order, the following bonds, which the Interstate Commerce Commission has authorized to be issued under the First Mortgage referred to in paragraph 8 above:

(a) $3,078,600 principal amount of Duluth, South Shore and Atlantic Railroad Company First Mortgage 4% Income Bonds, Series A, due January 1, 1995, to be delivered to Canadian Pacific Railway Company pursuant to paragraph 11 of this order; and

(b) $1,921,400 principal amount of Duluth, South Shore and Atlantic Railroad Company First Mortgage 4% Income Bonds, Series A, due January 1, 1995, to be delivered to the Exchange Agent pursuant to paragraph 12(b) of this order.

11. *Delivery of First Mortgage Bonds and Payment of Cash to Canadian Pacific Railway Company.* Concurrently with the surrender of old bonds and the issuance and delivery of Common Shares of the New Company to Canadian Pacific Railway Company, as directed in paragraph 7 above, the New Company shall at the direction of the Managers:

(a) Deliver to Canadian Pacific Railway Company a written order on Central Hanover Bank and Trust Company, Trustee under the First Mortgage, for the authentication of the $3,078,600 principal amount of First Mortgage Bonds referred to in paragraph 10(a) above and the registration thereof in the name of, and the delivery thereof to, Canadian Pacific Railway Company, which order may be presented to said First Mortgage trustee after the delivery of the instruments of satisfaction and release listed as Documents 2(a) to 2(g) in paragraph F of this order and shall then be accepted and executed by said First Mortgage trustee; and

(b) Pay to Canadian Pacific Railway Company in cash $628,596.69, to which it is entitled under the Plan in respect of its holdings of old securities as listed in paragraph 7 of this order, and $369,452, as cash in lieu of and equivalent to interest at the rate of 4% per annum on the aforesaid $3,078,600 principal amount of First Mortgage Bonds for the years 1945, 1947, and 1948.

12. *Execution of Exchange Agency Agreement; Delivery of First Mortgage Bonds to and Deposit of Cash with Exchange Agent.* (a) The New Company is hereby author-

ised and directed to execute and enter into the Exchange Agency Agreement with Central Hanover Bank and Trust Company, Exchange Agent, substantially in the form of Document 5 referred to in paragraph F of this order, and Central Hanover Bank and Trust Company is hereby authorised and directed to execute and become a party to said agreement as Exchange Agent, to receive the securities entitled to participate in the Plan (other than the holdings of Canadian Pacific Railway Company listed in paragraph 7 of this order) and deliver the First Mortgage Bonds and cash distributable in respect of such securities at the rates of exchange stated in paragraph 13 of this order, and otherwise to conduct the exchange in accordance with the Exchange Agency Agreement. Upon the termination of the Exchange Agency Agreement the New Company shall take over all undistributed cash remaining in the possession of the Exchange Agent, hold the same in trust, and continue the exchange of securities and distribution of cash (requisitioning First Mortgage Bonds from the First Mortgage trustee as required) in accordance with the applicable provisions of the Plan, this order, and the Exchange Agency Agreement.

(b) First Mortgage Bonds in the principal amount of $1,921,400 shall be authenticated, registered, and delivered by the First Mortgage trustee to or upon the order of the Exchange Agent for distribution under the Plan.

(c) The New Company shall deposit with the Exchange Agent the following amounts in cash for the purposes here specified:

(i) $401,986.55 for distribution to the holders of old securities as provided in the Plan; and

(ii) $230,563 in lieu of and equivalent to interest at the rate of 4% per annum for the years 1945, 1947,

and 1948 on the $1,921,400 principal amount of First Mortgage Bonds to be distributed by the Exchange Agent.

The Exchange Agent is authorized and directed to distribute the aforesaid amounts of cash at the rates specified in paragraphs 13 (a) and (b) of this order and in accordance with the applicable provisions of the Exchange Agency Agreement.

13. *Distribution of New Securities and Cash by Exchange Agent.* (a) The new securities deliverable by the Exchange Agent shall be distributed to the persons entitled thereto at the following rates per $1,000 or $500 principal amount of outstanding securities:

Outstanding Securities	New Securities and Cash Distribution: First Mortgage Bonds	New Securities and Cash Distribution: Cash
D.S.S.& A. First Mtge. 5% Bonds—*per $1,000 principal amount*	$600	$125.45
Mineral Range Consol. 5% Bonds—*per $500 principal amount*	$250	$ 9.00

(b) Cash payments in lieu of interest for the years 1945, 1947, and 1948 shall be made by the Exchange Agent at the rate of $12 per $100 principal amount of First Mortgage Bonds delivered.

14. *Notice of Exchange.* The Managers are authorized and directed to publish timely notice of the exchange of securities, once or from time to time, as they may deem advisable, in the Wall Street Journal (including the New York, Pacific Coast, and Southwest editions) and the Chicago Journal of Commerce. Such notice shall be substan-

tially in the form of Document 6 referred to in paragraph F of this order. The Managers shall also make available to holders of securities entitled to participate in the exchange, by mailing or otherwise, the information contained in said notice, together with letters of transmittal and instructions for the surrender of bonds for exchange.

15. *Assumption of Executory Contracts.* The New Company shall assume and be deemed to have assumed, as of the Consummation Date, all contracts made during the reorganization proceedings by the trustees of the properties of the Debtors pursuant to their duties as such trustees and not fully performed prior to the Consummation Date, and all executory contracts made by the Principal Debtor or the Subsidiary Debtor and not duly disaffirmed by said trustees or any of them prior to the Consummation Date.

16. *Assumption and Payment of Certain Claims.* (a) The New Company shall assume on the Consummation Date and pay in cash, to the extent allowed but not theretofore paid:

(i) Claims arising from the administration of the trust estates and the operation of the properties of the Principal Debtor and the Subsidiary Debtor subsequent to the filing of the petitions herein on January 2, 1937, and June 1, 1937, respectively;

(ii) Claims against either of the Debtors entitled to priority over one or more of its mortgages;

(iii) Claims for interest on the First Mortgage Five Per Cent. Gold Bonds of the Principal Debtor, represented by coupons that matured January 1, 1937, or prior thereto, and not paid at maturity because not presented for payment; and

(iv) Claims for interest on the First Mortgage Five Per Cent. Gold Bonds of the Principal Debtor for the

calendar year 1937, as allowed by Order No. 173 entered herein on September 16, 1944, which order the New Company shall assume and carry out to the extent that its terms have not been fully performed prior to the Consummation Date.

(b) To the extent that the claims, liabilities, and obligations referred to in paragraph 16 (a) above have not been paid by the Debtors or by the trustees of their properties pursuant to order of this Court, prior to the Consummation Date, they shall constitute a charge upon the New Company and its property prior in lien to the lien of the First Mortgage and shall be paid in due course by the New Company; provided, however, that all such claims, liabilities, and obligations may be paid and discharged in full or may be adjusted or compromised and dealt with in such manner as may be determined by the Board of Directors of the New Company.

(c) The balances of all deposits of funds for the payment of coupons on bonds of the Principal Debtor or the Subsidiary Debtor, or on bonds issued under mortgages constituting liens on their respective properties, and the balance of the deposit of interest moneys made by the trustees of the Debtors' properties pursuant to the aforesaid Order No. 173, held on the Consummation Date by trustees acting under such mortgages or by paying agents of the Principal Debtor, the Subsidiary Debtor, or the trustee of their properties, shall at that time vest absolutely and without restriction in the New Company and be payable thereafter to or upon its order.

17. *Assumption and Payment of Taxes Due to the United States.* With respect to the distribution of cash to Canadian Pacific Railway Company and other holders of First Mortgage Five Per Cent. Gold Bonds of the Principal

Debtor, at the rate of $125.45 per $1,000 principal amount of said bonds, no deduction and withholding of federal income tax shall be made, and if it should be finally determined that there is any tax liability by reason of such payment or the delivery of First Mortgage Bonds of the New Company in exchange for that issue, under Section 143(a) of the Internal Revenue Code, the New Company shall assume such liability. The New Company shall on the Consummation Date assume liability for and pay in full in due course any and all other taxes due to the United States of America from either of the Debtors or from the trustee of their properties, subject to the statutes of limitations applicable to the assessment and collection of such taxes; provided, however, that the liability of the New Company for any taxes that were the subject of litigation on March 19, 1949, the date of confirmation of the Plan, or that have or may become the subject of litigation on any date thereafter and prior to the expiration of the applicable statutes of limitation, shall be determined pursuant to law; and provided, further, that the New Company shall not be precluded by anything in this paragraph 17 from contesting the merits of any claim for taxes by the United States of America in the manner provided by law.

18. *Assumption of Certain Claims of the United States of America for Overpayments.* In connection with any settlements of transportation accounts between the United States of America and either of the Debtors, any trustee of their properties, or the New Company, the New Company shall recognize and pay or allow for any and all sums determined through audit, adjustment, compromise, or litigation to be due the United States of America by virtue of the provisions of Section 322 of the Transportation Act of 1940, 54 Stat. L. 955, for overpayments made prior

to March 19, 1949, the date of confirmation of the Plan, with the same relative priority as such claims had on January 1, 1945, with respect to other obligations of the Debtors, and without requiring proof thereof in these proceedings and without prejudice by reason of such sums not having been proved herein.

19. *Assumption of Equipment Obligations.* As authorized by the Interstate Commerce Commission in its aforesaid report and order of September 20, 1949, the New Company shall assume and be deemed to have assumed, as of the Consummation Date, the following obligations and liabilities, to the extent not paid or otherwise discharged prior to the Consummation Date:

(a) The unpaid balance, in the amount of $213,312 as of October 31, 1949, of the purchase price under the agreement dated December 16, 1946, between the trustees of the property of the Principal Debtor and The First National Bank of Minneapolis, owner by assignment from American Locomotive Company, covering the purchase of five 1,000-horsepower Diesel-electric road-switching locomotives, numbered 102 to 106, both inclusive;

(b) The unpaid balance, in the amount of $335,703.05 as of October 31, 1949, of the purchase price under the agreement dated October 15, 1948, between the trustee of the property of the Principal Debtor and Pullman-Standard Car Manufacturing Company, covering the purchase of 100 steel-sheathed 50-ton-capacity box cars, numbered 14,000 to 14,099, both inclusive;

(c) The unpaid balance, in the amount of $322,979.85 as of October 31, 1949, of the purchase price under the agreement dated March 16, 1949, between the trustee of the property of the Principal Debtor and Pullman-Standard Car Manufacturing Company, covering the purchase of 100 all-steel 50-ton-capacity gondola cars, numbered 4,000 to 4,099, both inclusive;

(d) The unpaid balance, in the amount of $917,472 as of October 31, 1949, of the purchase price under the agreement dated August 29, 1949, between the trustee of the property of the Principal Debtor and The First National Bank of Minneapolis, owner by assignment from The Baldwin Locomotive Works, covering the purchase of three 2,000-horsepower Diesel-electric transfer locomotives, numbered 300, 301, and 302, three 1,500-horsepower Diesel-electric road-switching locomotives, numbered 200, 201, and 202, and one 6-wheel Diesel truck with three traction motors; and

(e) Any other equipment obligations that may have been or may be issued by the trustee of the Debtors' properties prior to the Consummation Date and any equipment obligations that may arise because of the delivery of equipment after the dates of the above-listed agreements or otherwise under equipment obligations existing prior to the Consummation Date.

20. *Assumption and Payment of Reorganization Expenses.* The New Company is authorized and directed to pay the reasonable and necessary expenses (exclusive of the out-of-pocket expenses of the Managers and the fees and expense of their attorneys) incurred and to be incurred by the Managers in carrying out and putting into effect the Plan of Reorganization, to the extent that the same shall not have been paid prior to the Consummation Date, within the maximum limit of allowance for such expenses heretofore determined by the Interstate Commerce Commission and approved by this Court. The New Company shall also pay, in such amounts as have heretofore been or shall hereafter be allowed by this Court, but only to the extent that the same shall not have been paid prior to the Consummation Date, all other expenses and costs of the administration of these proceedings, including allowances of fees or compensation for services and reimbursement for

expenses heretofore or hereafter rendered or incurred in connection with these proceedings or the Plan by or on behalf of the parties to these proceedings. For the purposes of this paragraph 20 all compensation for services rendered and all expenses incurred by the trustees now acting under the mortgages referred to in paragraph F of this order, numbered 2(a) to 2(g), that would have been secured, respectively, by the liens of said mortgages if they had not been satisfied, cancelled, and released by and pursuant to this order, shall be deemed to be expenses incurred in connection with these proceedings or the Plan.

21. *Termination of Trustee's Possession and Operation of Debtors' Properties; Indemnification of Trustee.* Until the Consummation Date, the trustee of the properties of the Debtors shall continue to have all of the title and, subject to the control of the Court, shall exercise all of the powers heretofore vested in him by the orders of this Court. From and after the Consummation Date, said trustee shall continue in office until the further order of this Court, and he shall be entitled to compensation as heretofore fixed by the Court, which shall be paid by the New Company, until the entry of said further order, but he shall be relieved of all further duties, responsibility, and control as trustee in respect of the operation of the properties and business of the Debtors, and the New Company shall possess its assets free from the control of this Court, except as otherwise expressly provided in this order. Said trustee shall prepare and file with the Court, with reasonable dispatch, a final statement of account covering the period of his operation of the properties and business of the Debtors. From and after the Consummation Date there shall be no liability on said trustee for any obligations incurred by him in his official capacity as such trustee during the period in

which he shall have operated the properties and business of the Debtors pursuant to the authority of this Court, and the New Company shall be and become liable for, and shall indemnify and hold said trustee harmless against, any and all such obligations.

22. *Trustee's Checks; Payments for Periods Overlapping Consummation Date.* All checks and vouchers of the trustee of the Debtors' properties signed prior to the Consummation Date shall be honored, and said trustee is authorized to draw checks and vouchers on the funds of the New Company after the Consummation Date and deliver the same as may be requested by the New Company to facilitate any payments to be made by it, and all such checks and vouchers shall be similarly honored. Wage, salary, rental, tax, and other payments in respect of periods commencing before and terminating after the Consummation Date may be made by single checks or vouchers, whether of the trustee of the Debtors' properties or of the New Company.

23. *Pending Litigation.* The New Company shall have the right, if it so elects, to be substituted at its own cost and expense as a party in lieu of the Debtors, or either of them, or in lieu of the trustee of the Debtors' properties, in any or all litigation or proceedings by or against the Debtors, or either of them, or against said trustee, now pending on appeal or otherwise, or to continue such litigation or proceedings in the name or names of the present parties thereto.

24. *Disposition of Old Securities.* All unissued or blank bonds now held by the trustees under the mortgages referred to in paragraph F of this order, numbered 2(a) to

2(g), shall be delivered to or upon the order of the New Company; all securities surrendered for exchange pursuant to this order shall be cancelled and delivered to or upon the order of the New Company; and all such securities shall thereafter be cremated or otherwise disposed of in a manner consistent with any applicable rules and regulations of the Interstate Commerce Commission.

25. *Recording and Filing Documents.* Upon the payment of their proper recording and filing fees, all recording officers of states, counties, and municipalities in which the properties of the New Company shall be situated after the Consummation Date shall record or file for record all such documents provided in this order, or in the documents herein approved, to be recorded or filed for record, as may be tendered to them for recording or filing, the laws of any state to the contrary notwithstanding.

26. *Injunctive Provisions.* All persons, firms, and corporation whatsoever, and wheresoever situated or domiciled, are hereby restrained and enjoined from interfering with the carrying out of the Plan of Reorganization by attaching, garnishing, levying upon, enforcing liens against or upon, or in any manner whatsoever disturbing any portion of the property, real, personal, or mixed, of any kind or character, belonging to or being in the possession of Duluth, South Shore and Atlantic Railroad Company, the New Company, and from interfering with or taking steps to interfere with the New Company, its officers and agents, or the operation of the lines of railroad or properties or conduct of the business of the New Company, by reason or on account of any claim or interest as holder or owner of any share or shares of stock of any class or any certificate representing such share or shares of stock of the Principal Debtor or the Subsidiary Debtor, or as holder or owner of

any beneficial interest therein, or by reason or on account of any obligation or obligations incurred by the Principal Debtor, the Subsidiary Debtor, or the trustees of their properties.

27. *Reservation of Jurisdiction for Certain Purposes; Termination of Proceedings.* The Court hereby reserves jurisdiction to allow fees or compensation for services and reimbursement for expenses heretofore or hereafter rendered or incurred in connection with these proceedings or the Plan, to pass on the final statement of account of the trustee of the properties of the Debtors, to pass on the final report of the Managers, and to take such further action as may be necessary to put into effect the Plan, this order, and any other order heretofore entered by this Court relative thereto; provided, however, that nothing in this paragraph 27 shall be construed as a reservation of jurisdiction to change the provisions of the Plan or any of the rights vested thereunder or any of the rights of the holders of the new securities or of persons entitled to receive such securities, and, except as otherwise provided in this order, these proceedings, and the jurisdiction of this Court in or by virtue thereof, are hereby terminated, effective at the Consummation Date, and the case is closed.

ENTER:

GUNNAR H. NORDBYE
District Judge

October 25, 1949
(Endorsed)
Filed October 25, 1949
THOMAS H. HOWARD, CLERK
BY: Chell M. Smith, Chief Deputy

COUNTERPART No. 6

NORTHERN PACIFIC RAILWAY

EQUIPMENT TRUST OF 1949, THIRD SERIES

AGREEMENT

Dated as of November 1, 1949

WILLIAM ECHTERMEYER, EDWARD J. MON

AND

WALTER W. RICH,

VENDORS

J. P. MORGAN & CO. INCORPORATED

TRUSTEE,

AND

NORTHERN PACIFIC RAILWAY COMPANY

LEASE

Dated as of November 1, 1949

J. P. MORGAN & CO. INCORPORATED

TRUSTEE,

TO

NORTHERN PACIFIC RAILWAY COMPANY

For Issue of $3,975,000 Equipment Trust Certificates

THIS AGREEMENT, dated as of November 1, 1949, by and among WILLIAM ECHTERMEYER, EDWARD J. MON, and WALTER W. RICH, citizens of the State of New York, (hereinafter called the "Vendors"), of the first part,

J. P. MORGAN & CO. INCORPORATED, a corporation duly organized and existing under the laws of the State of New York (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 Vendors have 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 Three Million Nine Hundred Seventy-five Thousand Dollars ($3,975,000), 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 Three Million Nine Hundred Seventy-five Thousand Dollars ($3,975,000), to be known as "NORTHERN PACIFIC RAILWAY EQUIPMENT TRUST OF 1949, THIRD SERIES", which said fund, is to be furnished to the Vendors to be applied by them 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 Vendors desire 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 Two Hundred Sixty-five Thousand Dollars ($265,000), payable serially on the first day of November in each year commencing with November 1, 1950, and ending with November 1, 1964, as hereinafter more particularly provided, with dividends at the rate of two and one eighth (2⅛%) per cent. per annum, from November 1, 1949, payable semi-annually on the first day of May and November in each year, commencing May 1, 1950, 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 Vendors, 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 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 Vendors are unable to acquire any unit or units of the Trust Equipment specifically described in the Lease, the Vendors may acquire in place of such unit or units of equipment they are 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 Vendors 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 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 Vendors shall incur no liability hereunder, or under any bill of sale executed by them as herein provided, or for anything other than their own wilful default, misconduct or negligence. The Vendors 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 them 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 Vendors 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 Three Million Nine Hundred Seventy-five Thousand Dollars ($3,975,000). 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 Vendors Trust Certificates, to be designated "Northern Pacific Railway Equipment Trust of 1949, Serial Equipment Trust Certificates, Third Series", substantially in the form set forth in Article II of this Agreement of the aggregate par value of Three Million Nine Hundred Seventy-five Thousand Dollars ($3,975,000). 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 on 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 Vendors, or upon their written order, out of and to the extent of the "deposited cash", an amount not exceeding (a) eighty per cent. (80%) 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) eighty per cent. (80%) of the cost thereof as specified in the certifiate 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 per cent. (20%) of the said cost. Thereupon the Trustee shall pay to the Vendors or upon their 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 trust number or numbers, (or in the case of diesel locomotive equipment, by either manufacturers' serial numbers or trust 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 Vendors; 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 Vendors 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 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 if a final certificate be required.

If the aggregate final cost of all the Trust Equipment acquired by the Vendors 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 Five Million Five Thousand One Hundred Dollars ($5,005,100), the Vendors 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 Five Million Five Thousand One Hundred Dollars ($5,005,100), of which aggregate final cost not more than eighty per cent. (80%) shall be paid from "deposited cash", to the extent thereof, and not less than twenty per cent. (20%) 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 November 1, 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

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, in the Borough of Manhattan, City and State of New York, 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 November 1, 1949, and of a Lease of Railroad Equipment made by J. P. Morgan & Co. Incorporated, Trustee, to Northern Pacific Railway Company, dated as of November 1, 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 Three Million Nine Hundred Seventy-five Thousand Dollars ($3,975,000) 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 Borough of Manhattan, City and 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 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 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 appertaining, which shall continue to be payable to bearer and transferable by delivery.

Every taker and holder of this certificate, and of the dividend warrants appertaining hereto, 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 appertaining 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 appertaining 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 November 1, 1949.

In witness whereof, the Trustee has caused this certificate to be signed by its President or one of its Vice Presidents by a facsimile of his signature and its corporate seal, or a facsimile thereof, to be hereunto affixed and to be attested by its Secretary or by one of its Assistant Secretaries, and has caused dividend warrants bearing the facsimile signature of its Treasurer to be attached hereto, as of the 1st day of November, 1949.

J. P. Morgan & Co. Incorporated,
Trustee,

By .....
Vice-President

Attest:

.....
Assistant Secretary.

[Form of Dividend Warrant]

No. $10.63*

Due to the bearer hereof on the first day of , 19, , on the surrender hereof at the office of the undersigned Trustee, in the Borough of Manhattan, City and State of New York, Ten and 63/100 Dollars ($10.63), payable in such coin or currency of the United States of America as at the time of payment is legal tender for public and

*The even numbered warrants shall be for dividends in the amount of Ten and 62/100 ($10.62).

private debts, being the semi-annual dividend then due on Certificate No. of Northern Pacific Railway Equipment Trust of 1949, Third Series, but only out of rentals or other moneys received by the undersigned pursuant to the Agreement and Lease, dated as of November 1, 1949, referred to in said Certificate, and as therein provided.

J. P. Morgan & Co. Incorporated,
Trustee,

By .....
Treasurer.

[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 each of the dividend warrants appertaining thereto 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 November 1, 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 (the signature of either of which may be a facsimile), and its corporate seal or a facsimile thereof, 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 Treasurer of the Trustee; any such facsimile signature shall be effective and binding notwithstanding the fact that such Treasurer 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 Borough of Manhattan, City and 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 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 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 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, 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 Trustee shall make payment of any matured and unpaid dividend warrants appertaining to the same. The ap-

plicant 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 one eighth per cent. (2⅛%) per annum, from November 1, 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, assessment, obligation or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings unless such contest will, in the judgment of the Trustee, materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates.

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 Three Million Nine Hundred Seventy-five Thousand Dollars ($3,975,000) of certificates shall be issued forthwith upon the deposit with the Trustee or to its credit as Trustee hereunder of Three Million Nine Hundred Seventy-five Thousand Dollars ($3,975,000) 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 on 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 Agreement 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 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 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 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 Vendors, 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

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, 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 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 J. P. Morgan & Co. Incorporated, 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 J. P. Morgan & Co. Incorporated, at its office in the Borough of Manhattan, City and State of 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.

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 Vendors 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 November 1, 1949.

William Eichenberger
Edward J. Mon
Walter W. Rich

Signed, sealed, executed and delivered by William Eichenberger, Edward J. Mon, and Walter W. Rich in the presence of us:

R. H. Gannon
J. D. Sieber

J. P. Morgan & Co. Incorporated,

By David B. Du Bois
Vice President.

Attest: Wm L. Larson
Assistant Secretary.

Northern Pacific Railway Company,

By J. Lafore
Vice President.

Attest: W. Waller Jr.
Assistant Secretary.

Signed, sealed, attested, executed and delivered by J. P. Morgan & Co. Incorporated and Northern Pacific Railway Company, in the presence of:

R. H. Gannon
J. D. Sieber

As Witnesses to all signatures.

(United States Internal Revenue Stamps for $4,372.50 have been affixed to an original counterpart hereof in the possession of the Trustee and have been duly cancelled.)

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

I, Joseph A. Bambury, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 31st day of October, 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 November 1, 1949, the above named William Echtermeyer, Edward J. Mon, and Walter W. Rich, to me known and known to me to be the persons described in and who executed the foregoing instrument in writing, and the said William Echtermeyer, Edward J. Mon, and Walter W. Rich, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say that the said William Echtermeyer resides at 77 Park Avenue, Port Washington, Long Island, New York, that the said Edward J. Mon resides at 298 Weirfield Street, Brooklyn 27, New York, and that the said Walter W. Rich resides at 18 Orchard Street, Mt. Vernon, New York, and each acknowledged that he executed, signed, sealed and delivered the above and foregoing instrument as his own free and voluntary act and deed for the consideration, objects, uses and purposes therein stated and set forth.

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

Joseph A. Bambury

JOSEPH A. BAMBURY
Notary Public of New York State
Residing in New York County
N.Y. Co. Clk's No. 10, Reg No 286-B-0
Commission Expires March 30, 1950

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

I, Joseph A. Bambury, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 31st day of October, 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 November 1, 1949, [illegible], and Wm. L. Carson, each to me personally known and known to me to be respectively a Vice President and an Assistant Secretary of J. P. Morgan & Co. Incorporated, one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such and to be duly authorized to make this acknowledgment as hereinafter stated, and the said [illegible] and Wm. L. Carson being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that said [illegible] resides at [illegible], and that said Wm. L. Carson resides at No. 150-16 South Avenue, Whitestone, L.I., N.Y., that said [illegible] is a Vice President and said Wm. L. Carson is an

Assistant Secretary of J. P. Morgan & Co. Incorporated, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said [illegible] and Wm. L. Carson know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the by-laws of such corporation and by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation, and that such corporation executed the same.

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

Joseph A. Bambury

JOSEPH A. BAMBURY
Notary Public of New York State
Residing in New York County
N.Y. Co. Clk's No. 10, Reg No 286-B-0
Commission Expires March 30, 1950

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

I, Joseph A. Bambury, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on the 31st day of October, 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 November 1, 1949, J. H. Poore and F. G. Hollender each to me personally known and known to me to be respectively a Vice President and an Assistant Secretary of Northern Pacific Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and to be duly authorized to make this acknowledgment as hereinafter stated, and the said 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 said J. H. Poore resides at 1495 Goodrich Avenue, St. Paul, Minnesota, and that said F. G. Hollender resides at 9206 89th Avenue, Woodhaven 21, New York; and said J. H. Poore is Vice President and said F. G. Hollender 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 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.

JOSEPH A. BAMBURY
Notary Public of New York State
Residing in New York County
N.Y. Co. Clk's No. 10. Reg. No. 286-B-0
Commission Expires March 30, 1950

LEASE

THIS LEASE AGREEMENT, dated as of November 1, 1949, by and between J. P. MORGAN & CO. INCORPORATED, a corporation duly organized and existing under the laws of the State of New York (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 WILLIAM ECHTERMEYER, EDWARD J. MON, and WALTER W. RICH, Vendors, J. P. MORGAN & CO. INCORPORATED, 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, THIRD 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 November 1, 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:

Number	Description of Equipment	Estimated Cost per Locomotive	Manufacturer's Serial Number of each unit (both inclusive)
6	6,000 H. P. Diesel-electric freight locomotives, each consisting of four units, General Motors Corporation (Electro-Motive Division), Builder	$624,850	10908-10931
8	1,000 H. P. Diesel-electric switching locomotives, General Motors Corporation (Electro-Motive Division), Builder	97,500	10932-10939
2	1,500 H. P. Diesel-electric road switching locomotives, General Motors, Corporation (Electro-Motive Division), Builder	140,500	10940-10941
2	1,000 H. P. Diesel-electric switching locomotives, American Locomotive Company, Builder	97,500	77939-77940

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 Five Million Five Thousand One Hundred Dollars ($5,005,100), the respective estimated unit prices being as hereinbefore set out.

If strikes, material shortages, or other causes beyond its control prevent the Vendors 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 Vendors 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 Five Million Five Thousand One Hundred Dol-

lars ($5,005,100), then in addition to that equipment there shall be acquired by said Vendors 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 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 here-

by 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 office of the Trustee, in the Borough of Manhattan, City and 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 per cent. (20%) 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 Vendors, will make the total sum deposited equal to Three Million Nine Hundred Seventy-five Thousand Dollars ($3,975,000);

(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 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 per cent. (20%) 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 one eighth per cent. (2⅛%) 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: Two Hundred Sixty-five Thousand Dollars ($265,000) on the 1st day of November in each year from November 1, 1950, to November 1, 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 of the units constituting the Trust Equipment, there shall be plainly, distinctly, permanently and conspicuously placed and fastened upon each side of each such unit a metal plate bearing the following words in letters not less than one-half inch in height:

NORTHERN PACIFIC RAILWAY EQUIPMENT TRUST OF 1949,
THIRD SERIES.

J. P. MORGAN & CO. INCORPORATED, TRUSTEE, OWNER, LESSOR.

and for the purpose of permanently identifying each particular unit of such Trust Equipment, there shall be plainly,

distinctly and conspicuously painted or otherwise permanently placed on each side thereof, in close proximity to such metal plate, a distinctive number, to be known as the trust number and to be preceded by the lettering "Trust No."; *provided, however*, that in the case of any diesel locomotive unit of such Trust Equipment, the manufacturer's serial number affixed to such unit may be used for identification in lieu of a trust number and such serial number need not be in close proximity to such metal plate.

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 or trust numbers, or manufacturer's serial numbers, 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 trust numbers or manufacturer's serial numbers of any of the Trust Equipment at any time covered by this lease (nor any trust numbers or manufacturer's serial numbers which may be substituted as herein provided), except in accordance with a statement of new trust numbers or manufacturer's serial numbers 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; *provided, however*, that, in addition to such trust number, or manufacturer's serial number, the Company may cause to be placed on each unit of such Trust Equipment in such position as not to be confused with the trust number, or manufacturer's serial number, thereon a reporting number identifying such particular unit of equipment for reporting and operating purposes, which reporting number may be changed by the Company from time to

time without the consent of the Trustee or the recording or filing of any instrument. The Company agrees, however, that it will, upon or prior to delivery of units of the Trust Equipment hereunder, lodge with the Trustee a statement setting forth a description thereof showing the reporting number as well as the trust number, or manufacturer's serial number, of each unit, and it further agrees that if any change shall thereafter be made in the reporting number of any unit of the Trust Equipment it will promptly report such change in writing to the Trustee.

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" and/or "Northern Pacific Railway" and/or "N. P." 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

ing 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

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 sub-

leased 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, 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 V of 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.

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 in Article V of the Agreement provided, to direct which of the proceedings provided for in this Lease shall be taken for the enforcement of the remedies contained herein.

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 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 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 Equip-

ment 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 conferred 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 November 1, 1949.

J. P. Morgan & Co. Incorporated,
As Trustee,

By David B. M. Shoup
Vice President.

Attest: Wm L Larson
Assistant Secretary.

NORTHERN PACIFIC RAILWAY COMPANY,

By J. Poore
Vice President.

Attest:
F. G. Hollender
Assistant Secretary.

Signed, sealed and delivered by
J. P. MORGAN & CO. INCORPORATED and
NORTHERN PACIFIC RAILWAY COMPANY,
in the presence of:

R. H. Gaunt
F. O. Sieler

As Witnesses to all Signatures.

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

I, Joseph A. Bambury, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 31st day of October, 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 November 1, 1949, [illegible], and Wm. L. Carson, each to me personally known and known to me to be respectively a Vice President and an Assistant Secretary of J. P. Morgan & Co. Incorporated, one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such and to be duly authorized to make this acknowledgment as hereinafter stated, and the said [illegible] and Wm. L. Carson being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that said [illegible] resides at [illegible], and that said Wm. L. Carson resides at No. 150-16 Tenth Avenue, Whitestone L.I., N.Y., that said [illegible] is a Vice President and said Wm. L. Carson is an

Assistant Secretary of J. P. Morgan & Co. Incorporated, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said [illegible] and Wm. L. Carson know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the by-laws of such corporation and by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation, and that such corporation executed the same.

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

Joseph A. Bambury

JOSEPH A. BAMBURY
Notary Public of New York State
Residing in New York County
N.Y. Co. Clk's No. 10. Reg. No. 386-B-0
Commission Expires March 30, 1950

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

I, Joseph A. Bambury a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 31st day of October, 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 November 1, 1949, J. H. Poore and F. G. Hollender each to me personally known and known to me to be respectively a Vice President and an Assistant Secretary of Northern Pacific Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and to be duly authorized to make this acknowledgment as hereinafter stated, and the said 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 said J. H. Poore resides at 1495 Goodrich Avenue, St. Paul 5, Minnesota, and that said F. G. Hollender resides at 9206 89th Avenue, Woodhaven 21, New York, that 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 corporations described in and

which executed the within and foregoing instrument in writing; that they, 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 corportion 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.

Joseph A. Bambury

JOSEPH A. BAMBURY
Notary Public of New York State
Residing in New York County
N.Y. Co. Clk's No. 10, Reg No. 386-B-0
Commission Expires March 30, 1950

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 7TH day of NOVEMBER A. D. 1949 at 8:00 o'clock A M. and recorded in Vol. 43 of RAILROAD MORTGAGES on pages 82-119 incl.
Thos. C. Shurman
Assistant Secretary of State

CENTRAL HANOVER BANK AND TRUST COMPANY,
as Trustee

SATISFACTION AND RELEASE
of
The Duluth, South Shore and Atlantic Railway Company
FIRST MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, that:

(1) CENTRAL HANOVER BANK AND TRUST COMPANY, a corporation of the State of New York, is the trustee under that certain indenture of mortgage and deed of trust executed by The Duluth, South Shore and Atlantic Railway Company, a consolidated corporation of the States of Michigan and Wisconsin, to Central Trust Company of New York (now known as Central Hanover Bank and Trust Company), Trustee, dated April 15, 1887, as supplemented and amended by supplemental indentures dated October 31, 1931, December 1, 1931, December 15, 1932, October 24, 1934, and December 11, 1934 (hereinafter referred to as the "First Mortgage"), under which there were issued The Duluth, South Shore and Atlantic Railway Company First Mortgage Five Per Cent. Gold Bonds, due January 1, 1937, in the aggregate principal amount of $4,000,000, of which $801,000 in principal amount have been surrendered to said trustee and cancelled and $3,199,000 in principal amount are outstanding.

(2) A Plan of Reorganization for The Duluth, South Shore and Atlantic Railway Company and its subsidiary, Mineral

Range Railroad Company, has been confirmed by the District Court of the United States for the District of Minnesota, Fourth Division, in proceedings for the reorganization of a railroad under Section 77 of the Bankruptcy Act, entitled "In the Matter of The Duluth, South Shore and Atlantic Railway Company, Principal Debtor, and Mineral Range Railroad Company, Subsidiary Debtor, No. 13310."

(3) Said District Court of the United States for the District of Minnesota, Fourth Division, by the consummation order and final decree entered in said reorganization proceedings, vested title to all of the property of said debtors in Duluth, South Shore and Atlantic Railroad Company, a corporation of the State of Minnesota, the reorganized company incorporated pursuant to said Plan of Reorganization, and declared the First Mortgage to be null and void and the lien thereof cancelled and released, as of 12:01 A.M., Central Standard Time, on November 1, 1949, and authorized and directed the undersigned, Central Hanover Bank and Trust Company, as such trustee, in confirmation of the termination of said First Mortgage and the release of the lien thereof, to execute and deliver this instrument of satisfaction and release.

WHEREFORE, in consideration of and compliance with the orders and directions of the Court in said reorganization proceedings, the undersigned, Central Hanover Bank and Trust Company, as such Trustee, does hereby: (1) remise, release, convey, and quitclaim unto Duluth, South Shore and Atlantic Railroad Company, a corporation of the State of Minnesota, the above-mentioned reorganized company, and its successors and assigns, all estate, right, title, interest, claim, and demand whatsoever which it may have acquired under and by virtue of or arising from the First Mortgage in and to all property of every kind or character whatsoever and wheresoever situated, real, personal, or mixed, conveyed or intended to be

BANK OF MONTREAL TRUST COMPANY,
as Successor Trustee

SATISFACTION AND RELEASE

of

FIRST CONSOLIDATED FOUR PER CENT. ONE HUNDRED YEAR GOLD MORTGAGE

of

The Duluth, South Shore and Atlantic Railway Company
Marquette, Houghton and Ontonagon Railroad Company
Marquette and Western Railroad Company
Negaunee and Palmer Railroad Company

KNOW ALL MEN BY THESE PRESENTS, that:

(1) Bank of Montreal Trust Company, a corporation of the State of New York, is successor trustee under that certain indenture of mortgage and deed of trust executed by The Duluth, South Shore and Atlantic Railway Company, a consolidated corporation of the States of Michigan and Wisconsin, and Marquette, Houghton and Ontonagon Railroad Company, Marquette and Western Railroad Company, and Negaunee and Palmer Railroad Company, corporations of the State of Michigan, to Central Trust Company of New York, Trustee, dated July 17, 1890, as supplemented and amended by an agreement between The Duluth, South Shore and Atlantic Railway Company, Canadian Pacific Railway Company, and Central Union Trust Company of New York, Trustee, dated March 30, 1925, and supplemental indentures

dated October 31, 1931, December 15, 1932, October 24, 1934, December 11, 1934, and May 22, 1936 (hereinafter referred to as the "First Consolidated Mortgage"), under which there were issued The Duluth, South Shore and Atlantic Railway Company First Consolidated Four Per Cent. One Hundred Year Gold Bonds, due August 1, 1990, in the aggregate principal amount of $15,107,000, all of which have been surrendered to said successor trustee and cancelled.

(2) On July 17, 1890, The Duluth, South Shore and Atlantic Railway Company acquired title to the properties formerly owned by Marquette, Houghton and Ontonagon Railroad Company, Marquette and Western Railroad Company, and Negaunee and Palmer Railroad Company and covered by the First Consolidated Mortgage.

(3) A Plan of Reorganization for The Duluth, South Shore and Atlantic Railway Company and its subsidiary, Mineral Range Railroad Company, has been confirmed by the District Court of the United States for the District of Minnesota, Fourth Division, in proceedings for the reorganization of a railroad under Section 77 of the Bankruptcy Act, entitled "In the Matter of The Duluth, South Shore and Atlantic Railway Company, Principal Debtor, and Mineral Range Railroad Company, Subsidiary Debtor, No. 13310."

(4) Said District Court of the United States for the District of Minnesota, Fourth Division, by the consummation order and final decree entered in said reorganization proceedings, vested title to all of the property of said debtors in Duluth, South Shore and Atlantic Railroad Company, a corporation of the State of Minnesota, the reorganized company incorporated pursuant to said Plan of Reorganization, and declared the First Consolidated Mortgage to be null and void and the lien thereof cancelled and released, as of 12:01 A.M., Central Standard Time, on November 1, 1949, and

conveyed by the First Mortgage, except such as has heretofore been released therefrom, all to the same effect as if herein fully set forth; (2) acknowledge full satisfaction and discharge of the First Mortgage and full discharge of all rights, claims, and demands which it, as such trustee, may have acquired by virtue of the First Mortgage; and (3) consent and direct that the First Mortgage be discharged of record, both as a real estate mortgage and as a chattel mortgage, and authorize the recording officer of each county and state in which the First Mortgage has been recorded or filed to discharge the same of record in his office.

In Witness Whereof, Central Hanover Bank and Trust Company, as such trustee, has caused this instrument to be signed and acknowledged by one of its Vice Presidents, and its corporate seal to be affixed hereto and the same to be attested by one of its Assistant Secretaries, all as of 12:01 A.M., Central Standard Time, on the first day of November, 1949.

Central Hanover Bank and Trust Company,
as Trustee under the First Mortgage of
The Duluth, South Shore and Atlantic
Railway Company, dated April 15, 1887,
and indentures supplemental thereto

By .....
Vice President

Attest:
.....
Assistant Secretary

In the presence of:
.....
.....

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

On this 7th day of November, 1949, before me personally appeared J. T. Harrigan and E. F. Ryan, to me personally known and to me known to be a vice president and an assistant secretary, respectively, of Central Hanover Bank and Trust Company, a corporation of the State of New York, and the persons who executed the foregoing instrument, who, being by me duly sworn, did say: that they are a vice president and an assistant secretary, respectively, of said corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that they executed the foregoing instrument as such officers, and said instrument was signed and sealed, on behalf of said corporation by its authority and the authority of its board of trustees. And the said J. T. Harrigan and E. F. Ryan acknowledged the execution of the foregoing instrument, by them as such officers, as the free act and deed of said corporation.

In Witness Whereof, I have hereunto set my hand and affixed my notarial seal in the county and state aforesaid this 7th day of November, 1949.

Thomas F. Meagher

NOTARIAL SEAL

Notary Public of the State of N. Y.
Residing in Queens County
Queens Co. Clk's No. 1824, Reg. No. 46-M-8
Ctf. filed N.Y. Co. Clk's No. 202, Reg. No. 322-M-0
Commission Expires March 30, 1950

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 18th day of November A. D. 1949 at 10:00 o'clock A. M. and recorded in Vol. 43 of Railroad Mortgages on pages 120-121.
Assistant Secretary of State

EXECUTED IN 25 COUNTERPARTS
OF WHICH THIS IS NO. 1

TRUSTEE'S DEED OF CONVEYANCE

KNOW ALL MEN BY THESE PRESENTS, that the Grantor, P. L. Solether, as trustee of the properties of The Duluth, South Shore and Atlantic Railway Company, a consolidated corporation of the States of Michigan and Wisconsin, and Mineral Range Railroad Company, a corporation of the State of Michigan, duly appointed by the District Court of the United States for the District of Minnesota, Fourth Division, in proceedings for the reorganization of a railroad under Section 77 of the Bankruptcy Act, entitled "In the Matter of The Duluth, South Shore and Atlantic Railway Company, Principal Debtor, and Mineral Range Railroad Company, Subsidiary Debtor, No. 13310" (hereinafter referred to as the "Trustee"), having title to, and being in possession of and operating the properties of said debtors in the States of Michigan, Minnesota, and Wisconsin, in consideration of and compliance with certain orders of said District Court in the reorganization proceedings, as mentioned below, has remised, released, transferred, assigned, conveyed, quitclaimed, and set over, and by these presents does remise, release, transfer, assign, convey, quitclaim, and set over unto the Grantee, DULUTH, SOUTH SHORE AND ATLANTIC RAILROAD COMPANY, a corporation of the State of Minnesota (the reorganized company under the Plan of Reorganization hereinafter referred to), all and singular the following described property, rights, privileges, and franchises:

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

Second. All of the rights, title, and interest of the Trustee, legal or equitable, in and to all lands, tenements, hereditaments, easements, rights of way, and other real property and interests in real property of whatever kind or description and wherever situated, and in and to all structures, improvements, and fixtures thereon, now owned or possessed by the Trustee;

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

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

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

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

authorized and directed the undersigned, Bank of Montreal Trust Company, as such successor trustee, in confirmation of the termination of said First Consolidated Mortgage and the release of the lien thereof, to execute and deliver this instrument of satisfaction and release.

WHEREFORE, in consideration of the foregoing and in compliance with the orders and directions of the Court in said reorganization proceedings, the undersigned, Bank of Montreal Trust Company, as such successor trustee, does hereby: (1) remise, release, convey, and quitclaim unto Duluth, South Shore and Atlantic Railroad Company, a corporation of the State of Minnesota, the above-mentioned reorganized company, and its successors and assigns, all estate, right, title, interest, claim, and demand whatsoever which it may have acquired under and by virtue of or arising from the First Consolidated Mortgage in and to all property of every kind or character whatsoever and wheresoever situated, real, personal, or mixed, conveyed or intended to be conveyed by the First Consolidated Mortgage, except such as has heretofore been released therefrom, all to the same effect as if herein fully set forth; (2) acknowledge full satisfaction and discharge of the First Consolidated Mortgage and full discharge of all rights, claims, and demands which it, as such successor trustee, may have acquired by virtue of the First Consolidated Mortgage; and (3) consent and direct that the First Consolidated Mortgage be discharged of record, both as a real estate mortgage and as a chattel mortgage, and authorize the recording officer of each county and state in which the First Consolidated Mortgage has been recorded or filed to discharge the same of record in his office.

IN WITNESS WHEREOF, Bank of Montreal Trust Company, as such successor trustee, has caused this instrument to be signed and acknowledged by one of its Vice Presidents, and its corporate seal to be affixed hereto and the same to be attested by ~~one of~~ its ~~Assistant~~ Secretaries, all as of 12:01

A.M., Central Standard Time, on the first day of November, 1949.

BANK OF MONTREAL TRUST COMPANY,

as Successor Trustee under the First Consolidated Four Per Cent. One Hundred Year Gold Mortgage of The Duluth, South Shore and Atlantic Railway Company and others, dated July 17, 1890, and the agreement and indentures supplemental thereto

By .....
Vice President

ATTEST:

.....
~~Assistant~~ Secretary

In the presence of:

.....

.....

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

On this 7th day of November, 1949, before me personally appeared D.W.Aljoe and C.E.Unverhaum to me personally known and to me known to be a vice president and ~~assistant~~ secretary, respectively, of Bank of Montreal Trust Company, a corporation of the State of New York, and the persons who executed the foregoing instrument, who, being by me duly sworn, did say: that they are a vice president and ~~assistant~~ secretary, respectively, of said corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that they executed the foregoing instrument as such officers, and said instrument was signed and sealed, on behalf of said corporation by its authority and the authority of its board of directors. And the said D.W.Aljoe and C.E.Unverhaum acknowledged the execution of the foregoing instrument, by them as such officers, as the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal in the county and state aforesaid this 7th day of November, 1949.

.....
CALVIN RAUH
NOTARY PUBLIC IN THE STATE OF NEW YORK
RESIDING IN NEW YORK COUNTY
N. Y. Co. Clk's No. 31-28-3800, Reg. No. 31-2000000
COMMISSION EXPIRES MARCH 30, 1951

State of Wisconsin }
Department of State } ss.

Received this 18th day of November, A.D. 1949, at 10:00 o'clock A.M. and recorded in Volume 45 of Railroad Mortgages on Pages 128-135.

Assistant Secretary of State

Seventh. All right, title, and interest of the Trustee, of every name and nature, in and to any and all telegraph, telephone, or other communication facilities, and the rights and agreements covering the rights to the use of any and all telegraph, telephone, or other communication facilities along the lines of railroad now owned or operated by the Trustee;

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

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

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

Together with all other properties of any and every kind or character whatsoever and wheresoever situated, real, personal, or mixed, at the date of the execution and delivery of this instrument belonging to the Trustee; all tolls, revenues, earnings, income, rents, issues, and profits of said properties; all of the estate, right, title, interest, property, possession, claim, and demand whatsoever of the Trustee, as well in equity as in law, in and to said properties and every part and parcel thereof and of, in, and to the appurtenances and franchises appertaining thereto; all additions, improvements, and

betterments to or upon or in connection with said properties; and all of the lands, tenements, hereditaments, reversions, remainders, rights, privileges, immunities, and benefits appertaining to said properties or any of the same:

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

This conveyance is made by the Grantor pursuant to a Plan of Reorganization for The Duluth, South Shore and Atlantic Railway Company, a consolidated corporation of the States of Michigan and Wisconsin, and its subsidiary, Mineral Range Railroad Company, a Michigan corporation, certified by order of the Interstate Commerce Commission, dated June 19, 1947, in proceedings entitled "Duluth, South Shore & Atlantic Railway Company and Mineral Range Railroad Company Reorganization, Finance Docket No. 11484," and confirmed by order of the District Court of the United States for the District of Minnesota, Fourth Division, entered March 19, 1949, in proceedings for the reorganization of a railroad under Section 77 of the Bankruptcy Act, entitled "In the Matter of The Duluth, South Shore and Atlantic Railway Company, Principal Debtor, and Mineral Range Railroad Company, Subsidiary Debtor, No. 13310," and this instrument is executed in connection with and for the purpose of consummating said Plan of Reorganization and pursuant to the authorization and direction, and subject to the terms, conditions, and provisions, of the consummation order and final decree entered by said District Court in said reorganization proceedings.

This instrument is executed by, and shall be binding upon, the Trustee, his successors and assigns, for the uses and purposes above set forth and referred to, effective as of 12:01 A.M., Central Standard Time, on the first day of November, 1949.

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

In Witness Whereof, P. L. Solether, as such Trustee, and not as an individual, has hereunto set his hand and seal as of 12:01 A.M., Central Standard Time, on the first day of November, 1949.

P. L. Solether (L. S.)
As Trustee of the Properties of The Duluth, South Shore and Atlantic Railway Company, Principal Debtor, and Mineral Range Railroad Company, Subsidiary Debtor

In the presence of:

Leonard H. Murray
F. C. Givens

State of Minnesota
County of Hennepin } ss.

On this 1st day of November, 1949, before me personally appeared P. L. Solether, to me known to be the person who is described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed, pursuant to the authorization and direction of the District Court of the United States for the District of Minnesota, Fourth Division, and in his capacity as trustee of the properties of the debtor railroad corporations in certain proceedings under Section 77 of the Bankruptcy Act entitled "In the Matter of The Duluth, South Shore and Atlantic Railway Company, Principal Debtor, and Mineral Range Railroad Company, Subsidiary Debtor, No. 13310," pending in said District Court.

s/ F. C. Givens
F. C. GIVENS
Notary Public, Hennepin County, Minn.
My Commission Expires July 11, 1952.

State of Wisconsin }
DEPARTMENT OF STATE } ss.
Received this 18th day of November A. D. 19 49 at 10:00 o'clock A M. and recorded in Vol. 43 of Railroad Mortgages on pages 124-126, incl.
Robert C. Zimmerman
Assistant Secretary of State

This Indenture of Mortgage and Deed of Trust dated as of the first day of January, One Thousand Nine Hundred Forty-nine (hereinafter referred to as the "Mortgage"), between DULUTH, SOUTH SHORE AND ATLANTIC RAILROAD COMPANY, a Minnesota corporation (hereinafter referred to as the "Company"), party of the first part, and CENTRAL HANOVER BANK AND TRUST COMPANY, a New York corporation (hereinafter referred to as the "Trustee"), party of the second part,

WITNESSETH:

WHEREAS, the Company was organized in order to carry out a certain plan of reorganization certified by order of the Interstate Commerce Commission dated June 19, 1947, in proceedings entitled "Duluth, South Shore & Atlantic Railway Company Reorganization, Finance Docket No. 11484," and confirmed by order of the District Court of the United States for the District of Minnesota, entered March 19, 1949, in proceedings for the reorganization of a railroad under Section 77 of the Bankruptcy Act, entitled "In the Matter of The Duluth, South Shore and Atlantic Railway Company, Principal Debtor, and Mineral Range Railroad Company, Subsidiary Debtor, No. 13310" (said plan as so confirmed being hereinafter referred to as the "Plan," and the debtor and subsidiary debtor in said proceedings being hereinafter referred to as the "Debtor" and "Subsidiary Debtor," respectively), and said order of confirmation has become final in all respects; and

WHEREAS, pursuant to the Plan and the order of the Court directing consummation of the Plan, the Company now owns the several lines of railway and other property and franchises heretofore owned by the Debtor, by the Subsidiary Debtor and by P. L. Solether, as trustee of their properties, by virtue of appropriate conveyances from said corporations and said trustee; and

(Feb 7 62)

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

WHEREAS, in accordance with the Plan, the Reorganization Managers designated pursuant thereto have duly determined, and the Court by its order directing consummation of the Plan has approved, the form and provisions of the Mortgage and of the Bonds of Series A to be issued thereunder; and

WHEREAS, the Bonds of Series A (which are to be in the form of registered Bonds without coupons only), and the Trustee's certificate of authentication to be endorsed on the Bonds of all series, are to be substantially in the following forms, respectively:

(Form of Registered Bond without Coupons of Series A)

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

DULUTH, SOUTH SHORE AND ATLANTIC RAILROAD COMPANY

FIRST MORTGAGE 4% INCOME BOND, SERIES A,
DUE JANUARY 1, 1995

DULUTH, SOUTH SHORE AND ATLANTIC RAILROAD COMPANY, a corporation existing under the laws of the State of Minnesota, and having its principal office in the City of Minneapolis, State of Minnesota (herein referred to as the "Company"), for value received, hereby promises to

pay to ....., or registered assigns, on January 1, 1995, the principal sum of ..... Dollars in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts; and (except as herein otherwise provided) to pay interest on said principal sum in like coin or currency at the rate of 4% per annum, from January 1, 1949 (except to the extent paid on or before the date hereof on a principal sum equivalent to the principal sum hereof), until said principal sum becomes due and payable as herein provided and, if default be made in the payment of said principal sum when so due and payable, thereafter (to the extent permitted by law) at the highest rate of interest borne by any of the Bonds outstanding under the Mortgage hereinafter referred to until the Company's obligation with respect to the payment of said principal sum shall be discharged as provided in the Mortgage.

Until said principal sum becomes due and payable or until interest on said principal sum becomes fixed as hereinafter provided, interest on this Bond with respect to each calendar year prior to the calendar year immediately preceding the date of maturity of this Bond will be payable on the first May 1 following such calendar year when and to the extent that the Available Net Income of the Company, as defined and made applicable to the payment of such interest, is adequate therefor under the terms and provisions of the Mortgage. Interest of 4% on the principal sum of this Bond for the calendar year 1994 will be paid on January 1, 1995, whether or not the Available Net Income of the Company for the calendar year 1994 is adequate for the payment of such interest. To the extent that the Available Net Income of the Company applicable to the payment of interest on this Bond for any calendar year prior to the year 1994 shall be less than 4% of such principal sum, such interest shall accumulate if and to the extent that the Available Net Income for such calendar year has been reduced by reason of the extinguishment of any deficit or deficits in the Available Net Income for any prior year or years, and shall be payable when and to the extent that the Available Net Income for subsequent calendar years applicable to the payment of such accumulations is adequate therefor under the terms and conditions of

the Mortgage; but all accumulations of interest that have not become payable on or before May 1, 1994, shall lapse and cease to be obligations of the Company. When an event of default as defined in the Mortgage shall occur, any unpaid accumulations of interest on this Bond that have not lapsed as aforesaid, any interest reserved as hereinafter provided, and interest at the rate of 4% per annum from January 1 of the calendar year in which such event of default occurs to the date thereof, shall then be due and payable. Accumulations of interest on this Bond shall not bear interest. Except as aforesaid, no interest shall be required to be paid on this Bond on any interest payment date if the amount then payable would be less than 25 cents on each $100 of the principal sum hereof, but any amount available for interest not payable because of this provision shall be reserved and added to the amount available for, or payable on account of, interest on the next date on which interest shall be paid.

The principal of and interest on this Bond are payable at the office or agency of the Company in the Borough of Manhattan, City and State of New York.

This Bond is one of the First Mortgage Bonds of the Company (herein referred to as the "Bonds"), not limited in aggregate principal amount except as provided in the Mortgage, issued and to be issued under, and all equally and ratably secured by, a mortgage and deed of trust dated as of January 1, 1949 (herein referred to as the "Mortgage"), duly executed and delivered by the Company to Central Hanover Bank and Trust Company, as Trustee, and its successors in trust (which Trustee and its successors in trust are hereinafter referred to as the "Trustee"), to which Mortgage and all indentures supplemental thereto reference is hereby made for a description of the property mortgaged and pledged, the nature and extent of the security, the rights of and restrictions upon the Company and the holders of the Bonds and coupons in respect of such security, the rights, duties and immunities of the Trustee and the terms and conditions under which the Bonds are, and may be, issued and secured. By the terms of the Mortgage, the Bonds may be for various principal sums and are issuable in series, and the

Bonds of any series may differ from the Bonds of any other series as to denomination, date, maturity, interest rate, redemption, sinking fund provisions, conversion rights and otherwise, all as in the Mortgage provided. Bonds of Series A, of which this is one, are designated as the "First Mortgage 4% Income Bonds, Series A, due January 1, 1995," and the aggregate principal amount thereof is limited to $5,000,000.

Bonds of any other series bearing any interest payable unconditionally at a fixed rate, either from a date stated therein or from some fixed or determinable date thereafter, may be issued under the Mortgage, but in the event of the issuance of any such Bonds the interest on this and all other Bonds of Series A shall become fixed and unconditionally payable at the rate of 4% per annum for the full calendar year during which the interest on such Bonds of any other series becomes fixed and for all succeeding calendar years until the principal sum becomes due and payable, and shall be payable semi-annually on such dates as may be determined by the Board of Directors of the Company and as shall be provided in the supplemental indenture creating such other series, but any accumulations of unpaid interest on the Bonds of Series A for prior years shall continue to be payable on May 1 of the calendar year then current and succeeding calendar years to the extent of Available Net Income applicable to the payment of such accumulations under the provisions of the Mortgage. In such event the Company will make provision for the issuance of new Bonds of Series A in exchange and substitution for the Bonds of Series A then outstanding and for the manner of evidencing the rights of the holders of such substituted Bonds to receive such accumulations of unpaid interest.

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

The Mortgage contains provisions permitting the Company and the Trustee at any time or times, with the consent, evidenced as in the Mortgage provided, of the holders of not less than 66⅔% in aggregate principal amount of all

Bonds then outstanding and to be directly affected thereby, and of the holders of not less than 66⅔% in aggregate principal amount of such of said Bonds as are then Publicly Held, as defined in the Mortgage, to modify (with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises) the sinking fund provisions in the Mortgage, or to modify or alter in any manner any of the other provisions of the Mortgage or of any indenture supplemental thereto or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Company; provided, however, that without the consent of the holder of this Bond, evidenced as in the Mortgage provided (such consent to be conclusive and binding upon such holder and upon all future holders of this Bond), no such modification or alteration shall (i) permit the creation by the Company of any mortgage or other lien in the nature of a mortgage ranking prior to or on a parity with the lien of the Mortgage or of any indenture supplemental thereto, with respect to any property covered thereby, otherwise than as permitted by the Mortgage, or (ii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds, or (iii) alter or impair the obligation of the Company to pay the principal amount or the interest specified in this Bond at the place and in the manner specified in this Bond, or (iv) alter or impair the obligation of the Company with respect to the determination and application of the Available Net Income of the Company applicable to the payment of interest specified in any Bonds, except as provided in the Mortgage; and provided, further, that no such modification or alteration shall alter or impair the obligation of the Company with respect to the time or times of payment of the principal or the interest specified in the Bonds at the time or times specified therein, except that with the consent of the holders of at least 75% in aggregate principal amount of all of the Bonds at the time outstanding, and of the holders of not less than 75% in aggregate principal amount of such of said Bonds as are Publicly Held, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the time or times of payment of the principal of any or all series of the Bonds then outstanding, whether before or after the maturity thereof, may be postponed to any fixed or determinable

date not exceeding 20 years beyond the original date of maturity of the principal amount thereof or the time or times of payment of any fixed interest or unpaid accumulations of contingent interest on the Bonds of any or all series then outstanding, whether before or after such interest is due, may be postponed to any fixed or determinable date not later than 5 years after such interest first becomes payable and not beyond the original or postponed date of maturity of the principal thereof.

The Bonds of Series A are subject to redemption, in whole at any time or in part from time to time, on any date prior to maturity at the option of the Company, or through the operation of the Sinking Fund hereinafter mentioned, in each case upon publication of notice of such redemption in a newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, City and State of New York, such publication to be not less than 60 days and not more than 90 days before the date fixed for redemption, all as provided in the Mortgage, at a redemption price equal to the principal sum to be redeemed, plus all unpaid interest on such principal sum that has accumulated for prior years, interest that has been reserved as hereinabove provided, and interest at the rate of 4% per annum on such principal sum from January 1 of the next preceding calendar year to the date fixed for redemption reduced by the amount of interest, if any, otherwise paid or made available for payment thereon for such preceding calendar year. Registered Bonds of Series A without coupons for principal amounts exceeding $1,000 may be redeemed in portions amounting to $1,000 or multiples of $1,000, with interest as aforesaid on the principal sum to be redeemed.

The Bonds of Series A are entitled to the benefits of annual payments into the Sinking Fund out of Available Net Income, if any, as defined and made applicable for such purposes under the terms of the Mortgage.

This Bond is transferable by the registered holder in person (or by his attorney duly authorized in writing) at the office or agency maintained by the Company in said Borough of Manhattan, on registry books kept for such purpose at such office or agency, but only in the manner, subject to the limitations, upon payment of the charges provided in the

Mortgage, and upon surrender and cancellation of this Bond. Upon any such transfer a new Bond or Bonds of this series and of authorized denominations for the same aggregate principal amount will be issued to the transferee in exchange therefor.

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

The holders of a majority in principal amount of the outstanding Bonds that are Publicly Held shall have the right, in person or by proxy, to elect two members of the Board of Directors of the Company whenever, in the calendar year 1952 or any subsequent calendar year, the Company shall have failed, with respect to each of the next three preceding calendar years, to pay or make available for payment interest (exclusive of accumulations of contingent interest) on all outstanding Bonds at the full rate specified therein without regard to the amount of Available Net Income of the Company applicable to the payment of such interest, such right to be exercised at the time and in the manner and upon the conditions provided in the Mortgage and to continue until the first date thereafter on which interest on all outstanding Bonds (exclusive of accumulations of contingent interest) at the full rate specified therein without regard to the amount of Available Net Income of the Company applicable to the payment of such interest shall have been paid or made available for payment with respect to a subsequent calendar year. The registered holder of this Bond, by the acceptance hereof, hereby appoints the Trustee, or such person or persons as the Trustee may designate, as proxy for this purpose in the exercise of such rights attached to this Bond unless the registered holder hereof elects to exercise the same in person or by proxy other than the Trustee.

Bonds of this Series are issuable only in the form of registered Bonds without coupons in denominations of $100, $1,000,

and, with the consent of the Company, in multiples of $1,000. Upon presentation thereof for that purpose at the office or agency maintained by the Company in said Borough of Manhattan and in the manner, subject to the limitations, and upon payment of the charges provided in the Mortgage, Bonds of this Series may be exchanged for a like aggregate principal amount of Bonds of this Series of other authorized denominations, except that Bonds of this series of the denomination of $100 may be exchanged, in principal amounts aggregating $1,000 or a multiple thereof, only for an equivalent principal amount of Bonds of this series of the denomination of $1,000 or larger, and Bonds of this series of the denomination of $1,000 or larger may not be exchanged for Bonds of this series of the denomination of $100.

Each Bond of this series delivered pursuant to the exercise of any privilege of transfer, exchange or substitution for the whole or any part of one or more other Bonds of this series (except new Bonds of this series delivered by the Company in exchange and substitution for Bonds of this series then outstanding in the event interest on Bonds of this series becomes payable unconditionally at a fixed rate) shall carry all of the rights to interest which were carried by the whole or such part of such other Bond or Bonds at the time of such transfer, exchange or substitution, and interest shall be deemed to have been paid on such Bond to the extent paid, made available for payment or under a similar provision deemed to have been paid on an equal principal amount of the Bond or Bonds for which said Bond was transferred, exchanged or substituted.

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

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

In Witness Whereof, Duluth, South Shore and Atlantic Railroad Company has caused this Bond to be signed by its President or one of its Vice Presidents, and its corporate seal or a facsimile thereof to be affixed hereto or imprinted or engraved hereon and attested by its Secretary or an Assistant Secretary, and this Bond to be dated .....

Duluth, South Shore and Atlantic Railroad Company

By .....
President

Attest:

.....
Secretary

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

Trustee's Certificate of Authentication.

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

.....
As Trustee

By .....
Authorized Officer

and

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

Whereas, the execution and delivery of the Mortgage have been authorized by resolutions duly adopted by the stockholders and Board of Directors of the Company; and

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

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

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

Group A: Main lines:

	Miles
ITEM (1). Beginning at the Union Station in the City of Sault Ste. Marie, Michigan, and extending in a general westerly direction through the Counties of Chippewa, Luce, Schoolcraft, Alger, Marquette, Baraga, Houghton, Ontonagon, and Gogebic, in the State of Michigan, the Counties of Iron, Ashland, Bayfield and Douglas, in the State of Wisconsin, and the County of St. Louis, in the State of Minnesota, to the passenger station in the City of Duluth, Minnesota (including the right to the use of 85.98 miles of track of other companies and 1.57 miles of track owned jointly with other companies), and having a length of approximately	420.43
ITEM (2). Beginning at the Ferry Slip Dock in the City of St. Ignace, Michigan, and extending in a general northwesterly direction through the Counties of Mackinac, Chippewa, and Luce, in the State of Michigan, to a connection with the main line described in Item (1) of this *Group A* at Soo Junction, Michigan, and having a length of approximately	42.99
ITEM (3). Beginning at a connection with the main line described in Item (1) of this *Group A* at the depot in the City of Nestoria, Michigan, and extending in a general northerly direction through the Counties of Baraga and Houghton, in the State of Michigan (including .08 miles of track jointly owned with another company) to the end of the track in the City of Calumet, Michigan, and having a length of approximately	62.49

	Miles
ITEM (4). Beginning at a connection with the main line described in Item (3) of this *Group A* at the north end of the bridge at Hancock, Michigan, and extending in a general easterly direction through the County of Houghton, in the State of Michigan, to the end of the track at Lake Linden, Michigan (including .02 miles of track owned jointly with another company), and having a length of approximately	9.47
Wholly owned	447.73
Jointly owned	1.67
Trackage rights	85.98
Total main track in *Group A*	535.38

Group B: The undivided one-half interest of the Company in each of the following lines of railroad:

ITEM (1). A line extending between a connection with the track of Sainte Marie Union Depot Company east of Fourth Avenue, in the City of Sault Ste. Marie, Michigan, westerly to Fourth Avenue in said City, owned jointly with the Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, and having a length of approximately	1.57
ITEM (2). A line extending across the draw bridge span over Portage Lake between the Cities of East Houghton and Hancock, Michigan, and thence to a connection with the tracks of Copper Range Railroad Company in said City of Hancock, Michigan, owned jointly with the Copper Range Railroad Company, and having a length of approximately	0.10
Total track in *Group B*	1.67

	Miles
Group C: Second Tracks:	
All tracks owned by the Company or in which it has an interest and commonly designated as second track and used as part of or in connection with any of the lines of railroad above described in *Groups A* and *B* and having an aggregate length of approximately	1.78
Group D: Other tracks and sidings:	
All spur, side, industrial, switch, connecting, storage, yard, terminal, passing, and shop tracks and turnouts owned by the Company or in which it has an interest and used or provided for use in connection with any of the lines of railroad and tracks above described in *Groups A, B* and *C*, and having an aggregate length of approximately	127.46

SECOND. All right, title and interest, legal or equitable, of the Company in any and all other main and branch lines and tracks, cut-off, spur, industrial, switch, connecting, storage, yard or terminal tracks, superstructures, roadbeds, bridges, trestles, culverts, viaducts, buildings, depots, stations, stock yards, warehouses, elevators, car houses, engine houses, freight houses, machine shops and other shops, turntables, fuel stations, water stations, signals, interlocking plants, telegraph and telephone lines, fences, docks, structures and fixtures.

THIRD. All right, title and interest, legal or equitable, of the Company in and to all lands, tenements, hereditaments, easements, rights of way and other real property and interests in real property of whatever kind or description and wherever situated, and in and to all structures, improvements and fixtures thereon.

FOURTH. All right, title and interest of every name and nature, legal or equitable, of the Company in any and all mechanical equipment, machinery, tools, implements, furniture, supplies, materials, and other chattels.

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

SIXTH. The following described shares of capital stock of other corporations now owned by the Company and deposited with the Trustee:

	Number of Shares	Total Par Value
The Lake Superior Terminal and Transfer Railway Company Capital Stock	849	$ 84,900.00
Sault Ste. Marie Bridge Company Capital Stock	2,500	250,000.00
Sainte Marie Union Depot Company Capital Stock	375	37,500.00
Mackinac Transportation Company Capital Stock	216⅔	21,666.66
Railway Express Agency, Inc., Capital Stock	1	no par value
South Shore Land Company Capital Stock	15	1,500.00

SEVENTH. All of the Company's estate, right, title, interest, terms and remainders of terms, franchises, privileges and rights of action of whatsoever name and nature in law or in equity in and to the following principal trackage, terminal or operating contracts or agreements or leases, and

all amendments, supplements, renewals and extensions thereof:

(A) Trackage Agreements:

(1) With Sainte Marie Union Depot Company (not covered by written agreement but appurtenant to one-half of the capital stock of the company owned by the Company and deposited and pledged with the Trustee), covering trackage rights between the Union Station and a connection with the main track owned jointly by the Company and Minneapolis, St. Paul & Sault Ste. Marie Railroad Company south of Portage Avenue, in Sault Ste. Marie, Michigan, approximately 0.53 miles in length.

(2) With Wisconsin Central Railway Company, dated May 1, 1933, terminable on one year's written notice by the Company, covering trackage rights between Marengo Junction and Ashland, Wisconsin, approximately 11.77 miles in length.

(3) With Northern Pacific Railway Company, dated May 1, 1933, terminable on one year's written notice by the Company, covering trackage rights between Ashland and a connection with Chicago, St. Paul, Minneapolis and Omaha Railway Company tracks at Superior (East End), Wisconsin, approximately 63.89 miles in length.

(4) With Chicago, St. Paul, Minneapolis and Omaha Railway Company, dated May 1, 1934, terminable on 6 months' written notice by either party, covering trackage rights between a connection with the tracks of Northern Pacific Railway Company in Superior (East End) and the tracks of the Company at 9th Street and Stinson Avenue in Superior (East End), Wisconsin, approximately 0.21 miles in length.

(5) Trackage rights over the lines of other railroads (not covered by written agreement) between the tracks of the Company at 28th and Elm Streets and the tracks of Wisconsin Central Railway Company at 28th Street, in Superior, Wisconsin, approximately 0.14 miles in length.

(6) Trackage rights over the lines of other railroads (not covered by written agreement) between 28th Street

and a point of connection with the tracks of Lake Superior Terminal and Transfer Railway Company near Tower Avenue, in Superior, Wisconsin, approximately 2.33 miles in length.

(7) With Lake Superior Terminal and Transfer Railway Company (not covered by written agreement but appurtenant to one-sixth of the capital stock of the company owned by the Company and deposited and pledged with the Trustee), covering trackage rights between the tracks of Wisconsin Central Railway Company and Northern Pacific Railway Company in Superior, Wisconsin, approximately 0.43 miles in length.

(8) With Northern Pacific Railway Company, dated July 8, 1915, terminable at the close of any year on 6 months' written notice by either party, and supplement dated February 4, 1927, covering trackage rights over the Grassy Point Bridge and between the tracks of Lake Superior Terminal and Transfer Railway Company and the tracks on the Wisconsin approach to said Bridge, in West Duluth, Minnesota, approximately 1.97 miles in length.

(9) Trackage rights over the lines of other railroads (not covered by written agreement) between a connection with the tracks of Northern Pacific Railway Company at Berwind Junction, West Duluth, and the passenger station in Duluth, Minnesota, approximately 4.71 miles in length.

(B) Agreements relating to union and other stations, terminal yards and bridges:

(1) With Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, dated May 31, 1901, and supplement dated August 31, 1946, for a term of 99 years, covering the use of the jointly owned yard terminals and other facilities at Sault Ste. Marie, Michigan.

(2) With Canadian Pacific Railway Company and others, dated October 29, 1940, and supplement dated March 30, 1948, terminable on 90 days' written notice, covering switching and transfer facilities at Sault Ste.

Marie, Michigan, and Sault Ste. Marie, Ontario, and over the International Bridge between said cities.

(3) With Sainte Marie Union Depot Company, not covered by written agreement, for the use of passenger and freight facilities in Sault Ste. Marie, Michigan.

(4) With Chicago & North Western Railway Company, dated December 15, 1942, subject to termination on 30 days' written notice, covering the use of the jointly owned passenger and freight station at Ishpeming, Michigan.

(5) With Chicago & North Western Railway Company, dated January 22, 1907, and supplement dated April 30, 1937, subject to termination on 6 months' written notice, covering the use of the station and appurtenances at Saxon, Wisconsin.

(6) With Minneapolis, St. Paul & Sault Ste. Marie Railroad Company (not covered by written agreement), for the transfer of cars between Superior, Wisconsin, and Duluth, Minnesota, and the handling of freight at Duluth, Minnesota.

(7) Right to the use of the passenger station and other facilities of Wisconsin Central Railway Company in Duluth, Minnesota, not covered by written agreement.

(8) Right to the use of the station and other facilities of Wisconsin Central Railway Company in Superior, Wisconsin, not covered by written agreement.

(9) With Lake Superior Terminal and Transfer Railway Company, dated October 17, 1883, revised May 13, 1922, for an indefinite period, covering the use of freight and other facilities in Superior, Wisconsin, owned jointly by the Company and others.

(10) With Chicago, Milwaukee, St. Paul & Pacific Railroad Company, dated March 1, 1935, terminable on 60 days' written notice, covering the use of jointly owned passenger station at Sidnaw, Michigan.

(11) With Chicago & North Western Railway Company, dated July 1, 1910, for an indefinite period covering the use of the jointly owned station at Negaunee, Michigan.

(12) With Manistique & Lake Superior Railway Company, dated January 2, 1934, terminable on 30 days' writ-

ten notice, covering the use of the jointly owned station at Shingleton, Michigan.

(13) With Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, dated January 2, 1931, terminable on 6 months' written notice, covering the use of jointly owned station facilities at Trout Lake, Michigan.

(14) With Sault Ste. Marie Bridge Company, dated October 29, 1940, terminable on 90 days' written notice, covering the use of terminal facilities in Sault Ste. Marie, Michigan.

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

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

Tenth. Any and all corporate rights, powers, franchises, privileges and immunities now or hereafter owned or possessed by the Company which now or at any time hereafter may be necessary for or appurtenant to the use, operation, management, maintenance, renewal, alteration or improvement of the Company's lines of railroad or of any other property now or hereafter subject to the lien of the Mortgage.

Eleventh. All property of every kind and description which may hereafter be acquired by the Company and which

(a) shall be acquired in replacement of or substitution for or shall constitute additions, betterments or improvements to any property now or hereafter owned by the Company and subject to the lien of the Mortgage or which may at any time become subject to the lien of the Mortgage, or (b) shall be appurtenant to or acquired for use upon or in connection with any of the Company's lines of railroad or for use upon or in connection with any other property, real or personal, which may at the time be subject to the lien of the Mortgage, or (c) shall be acquired in whole or in part through the issuance or by the use of the proceeds of Bonds issued under the Mortgage or Prior Lien Bonds issued under a Prior Lien, or by the use of moneys deposited with the Trustee under any provision of the Mortgage or with the trustee of a Prior Lien under any provision thereof, or (d) by any provision of the Mortgage the Company is required to convey, mortgage, pledge, assign or transfer to the Trustee hereunder; provided, however, that if the Company shall acquire substantially all of the properties of any Class I Carrier (as defined in Article I), such properties shall be subject to the lien of the Mortgage only to the extent and under the conditions provided in Article XII.

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

reservations, limitations, conditions and provisions, consistent with the provisions of the Mortgage, which shall be specified or set forth in such supplemental indenture or instrument of transfer.

Thirteenth. All other property of every kind and description, real, personal or mixed, now owned by the Company or in which it now has any right, title or interest, including all property of every kind and description acquired by the Company from P. L. Solether, as trustee of the properties of the Debtor and the Subsidiary Debtor.

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

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

For the purpose of the foregoing granting clauses First to Fifteenth, inclusive:

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

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

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

(4) It is not intended to subject to the lien hereof, and this grant shall not be deemed to apply to, the properties of any Class I Carrier (as defined in Article I) acquired by the Company or of any Class I Carrier which shall acquire substantially all of the assets of the Company as an entirety, or of any Class I Carrier consolidated with the Company or into which the Company shall be merged, whether owned at the time of such acquisition, consolidation or merger or thereafter acquired, except to the extent and under the conditions provided in Article XII;

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

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

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

(c) any materials or supplies, or

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

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

(6) The provisions of the Mortgage, including those in the foregoing granting clauses First to Fifteenth, inclusive, shall be construed, and the lien of the Mortgage at any time shall be determined, in conformity with the following restrictions and rules of construction, which

shall prevail over any other provision of the Mortgage in the event of any inconsistency therewith:

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

(b) Nothing in the Mortgage, express or implied, is intended or shall be construed to limit the right or power of the Company, which is hereby expressly reserved, to acquire any property or interest therein subject to liens or charges existing thereon at the time of the acquisition thereof, or to create any purchase money mortgage or other lien or charge on such property or interest in order to finance the cost thereof, or to extend the term of or to refund any such lien or purchase money mortgage;

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

(d) Nothing in the Mortgage, express or implied, is intended or shall be construed to limit the right or power of the Company, which is hereby expressly reserved, to subject to an Equipment Obligation (by transfer to a trustee thereunder, or otherwise) any Equipment constructed or acquired for its use, at any time within two years from the date the same is so constructed or acquired, if such Equipment Obliga-

tion is created for the purpose of providing for, or reimbursing the Company for, in whole or in part, the cost of such construction or acquisition, and if and to the extent that such Equipment has not theretofore been acquired or constructed by expenditures from the Equipment Replacement Fund, but the lien of the Mortgage shall attach to the right, title and interest of the Company then or thereafter existing in such Equipment, subject only to such Equipment Obligation;

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

(f) Nothing in the Mortgage is intended or shall be construed to require the deposit with the Trustee of any Securities, or of any instruments of the character referred to in granting clauses Seventh, Eighth and Ninth, except such Securities and instruments as are by the terms of the Mortgage specifically required to be so deposited.

To Have and to Hold the premises, railroads, railroad property, appurtenances, rights, privileges, franchises, estates, leaseholds, securities and other property, real, personal and mixed, hereby granted, bargained, sold, conveyed, released, confirmed, mortgaged, pledged, assigned, transferred or set over, or intended so to be, or which may in any manner become subject to the lien of the Mortgage by indentures supplemental hereto or otherwise (all of which property at any given time subject to the lien of the Mortgage, whether by the terms of the Mortgage, including the after-acquired property clauses thereof, or by subsequent convey-

ance, delivery or pledge to the Trustee, or otherwise, is herein sometimes referred to as the "mortgaged property");

Subject, However, to the following:

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

(a) Conditional sale agreement, dated December 16, 1946, between Edward A. Whitman and P. L. Solether, as trustees of the property of the Debtor, and The First National Bank of Minneapolis, owner by assignment from American Locomotive Company, covering the purchase of five 1000 H.P. Diesel-Electric Road Switching Locomotives, numbered 102 to 106, both inclusive;

(b) Conditional sale agreement, dated October 15, 1948, between P. L. Solether, as trustee of the property of the Debtor, and Pullman-Standard Car Manufacturing Company, covering the purchase of 100 steel sheathed, 50-ton capacity box cars, numbered 15000 to 15099, both inclusive;

(c) Conditional sale agreement, dated March 16, 1949, between P. L. Solether, as trustee of the property of the Debtor, and Pullman-Standard Car Manufacturing Company, covering the purchase of 100 all steel, 50-ton capacity gondola cars, numbered 4000 to 4099, both inclusive; and

(d) Conditional sale agreement, dated August 29, 1949, between P. L. Solether, as trustee of the property of the Debtor, and The Baldwin Locomotive Works, covering the purchase of three 2000 H.P. Diesel-Electric Transfer Locomotives, numbered 300, 301 and 302, three 1500 H.P. Diesel-Electric Road Switching Locomotives, numbered 200, 201 and 202, and one 6-wheel Diesel Truck with three Traction motors;

under which Equipment Obligations the unpaid balance of outstanding obligations as of the close of business on October 31, 1949, aggregated $1,789,466.90 in principal amount; and

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

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

And It Is Hereby Covenanted and Declared that all of the Bonds and coupons for interest thereon, if any, are to be issued, authenticated and delivered, and that the mortgaged property is to be held and disposed of by the Trustee, upon and subject to the following covenants, conditions, uses and trusts:

ARTICLE I

Definitions

The terms defined in this Article I (unless otherwise expressly provided or unless the context otherwise requires) shall have the following meanings, respectively:

"Additions and Betterments" shall mean all physical additions to or improvements, extensions and betterments of the property of the Company becoming subject to the lien of the Mortgage, or located on any leasehold that is subject to the lien of the Mortgage, acquired or constructed by the Company after the date of the execution and delivery of the Mortgage, the cost of which, at the time of acquisition or construction, was properly chargeable to Capital Accounts, except:

(a) Equipment;

(b) Purchased Property; and

(c) Such additions, improvements, extensions, and betterments as:

(1) Were acquired or constructed through grants or donations or expenditures from the Road Replacement Fund or the application of funds pursuant to Section 24 of Article IX; or

(2) Are subject to any Prior Lien; or

(3) Are located on any leasehold subject to the lien of the Mortgage, unless the lease by its terms will expire subsequent to the date of maturity of the latest maturing Bonds then outstanding or Bonds for the authentication and delivery of which Application is then being made, or unless the Company has the right to remove such Additions and Betterments or to be reimbursed for the Cost thereof upon termination of the lease; or

(4) The Company has covenanted in Sections 7 and 8 of Article X not to use as a basis for the authen-

tication and delivery of any Bonds, the release of any property, or the withdrawal, payment or application of any cash held by the Trustee.

"Application" shall mean a letter or other instrument in writing dated not more than 60 days prior to its delivery to the Trustee and signed by the President or a Vice President of the Company, setting forth briefly the nature of the matter or action covered by the application, referring to the particular provision or provisions of the Mortgage upon which the application is based, and enumerating the resolutions, certificates, opinions, securities, cash, instruments of transfer and other papers and documents or property delivered or to be delivered to the Trustee with or in connection with such application.

"Available Net Income" for any calendar year shall mean the consolidated income after fixed charges of the Company and its Railroad Subsidiaries for such year, subject to the following:

(a) Such consolidated income shall be determined, in accordance with the Uniform System of Accounts applicable to such year, from the books of the Company without adjustment, except that:

(1) There shall be added to such consolidated income that proportion of each amount charged to operating expenses during such year on account of non-depreciable road property retired and not replaced which the portion of Service Life of such property prior to January 1, 1949, bears to the total Service Life of such property;

(2) In determining such consolidated income, any adjustment necessary to correct the income account for any prior year shall be made by appropriate entries either in the accounts of the current year (unless in violation of the applicable orders, instructions and regulations) or, in the discretion of the Board of Directors and subject to any requisite approval of the Interstate Commerce Commis-

sion or other public regulatory body having jurisdiction in the premises, in whole or in part in the accounts of any subsequent year or years; and in determining Available Net Income for any year any such entries made in the accounts of that year to adjust the income accounts of prior years, whether cleared through income or profit and loss accounts, shall be treated as items affecting the income accounts for the year in which they are entered on the books;

(3) If with respect to any calendar year there is a deficit in Available Net Income, the amount of such deficit shall be carried forward and deducted from such consolidated income in determining Available Net Income for the next succeeding calendar year or years until such deficit, and all accumulated or remaining deficits, be extinguished by what, in the absence of such deficit or deficits, would be Available Net Income.

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

(c) Available Net Income for the calendar year 1949 shall be computed in the same manner as if the Company had come into ownership and possession on January 1, 1949, of the properties operated by the trustee of the properties of the Debtor and Subsidiary Debtor and had issued on that date all securities issuable under the Plan.

"Board of Directors" shall mean the Board of Directors of the Company as from time to time constituted or any executive committee or other committee of the Board of Directors which shall be authorized by resolution of the Board of Directors or by the by-laws of the Company to act in place of the Board of Directors during any period or for any purpose germane to the Mortgage.

"Bonded," when used with reference to Bonds, Expenditures or Net Expenditures for Additions and Betterments, or Purchased Property, shall mean that such Bonds, Expendi-

tures or Net Expenditures for Additions and Betterments, or Purchased Property have been made the basis by the Company for (a) the authentication and delivery of any Bonds, (b) the release of any property from the lien of the Mortgage or of any Prior Lien, (c) the withdrawal, payment or application of any cash held by the Trustee under any provision of the Mortgage or by the trustee or mortgagee of any Prior Lien under any provision thereof, or (d) the surrender or other use, under the provisions of Section 7 or 8 of Article X, of Securities theretofore Bonded; and, when used with reference to Railroad Subsidiary Bonds or Prior Lien Bonds, or any securities acquired in substitution therefor, shall mean that such Railroad Subsidiary Bonds or Prior Lien Bonds, or any securities acquired in substitution therefor, have been made the basis by the Company for (a) the authentication and delivery of any Bonds, or (b) the withdrawal, payment or application of any cash held by the Trustee under any provision of the Mortgage.

If any Bonds, Expenditures or Net Expenditures for Additions and Betterments, Purchased Property, Railroad Subsidiary Bonds or Prior Lien Bonds, made the basis for any of the foregoing purposes, shall be in excess of the amount required for that particular purpose, such excess shall not be deemed to be Bonded.

All of the mortgaged property owned by the Company on the date of the execution and delivery of the Mortgage shall for all purposes of the Mortgage be deemed to be Bonded.

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

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

"Capital Accounts" shall mean the following present accounts, or similar accounts performing the functions of said present accounts, maintained by the Company in accordance with the Uniform System of Accounts:

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

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

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

"Class I Carrier" shall mean any common carrier corporation which had gross operating revenue of more than $1,000,000 for the calendar year next preceding the time of any transaction requiring a determination thereof under any provision of the Mortgage and determined in accordance with the Uniform System of Accounts.

"Company" shall mean and include not only Duluth, South Shore and Atlantic Railroad Company, the party of the first part to the Mortgage, but also any corporation that shall have complied with the provisions of Article XII and that shall have become a successor corporation as defined in Section 1 of said Article XII.

"Contingent Interest" shall mean, with respect to the Bonds or other obligations of the Company, the interest thereon to the extent that such interest is payable on condition that there is Available Net Income or other funds applicable to such payment.

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

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

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

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

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

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

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

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

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

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

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

"Prior Lien Bonds" shall mean any indebtedness or obligation secured by a Prior Lien.

"Publicly Held" when used with reference to Outstanding Bonds shall mean, as of any particular date, all Outstanding Bonds except those then held by or for the account of Canadian Pacific Railway Company or any corporation then directly or indirectly controlled by it, if the Company is then controlled directly or indirectly by Canadian Pacific Railway Company. The control referred to in this definition means the right to vote a majority of the outstanding shares of capital stock having general voting rights.

"Purchased Property" shall mean lines of railroad, bridges or railroad terminals, including the Equipment, if any, purchased or acquired by the Company from others, directly connected with the lines of railroad owned by the Company and deemed by the Board of Directors to be necessary or useful in connection with the operation of the Company's system.

"Railroad Subsidiary" shall mean any corporation owning one or more lines of railroad, bridges or railroad terminals, including the Equipment, if any, directly connected with the lines of railroad owned by the Company and deemed by the Board of Directors to be necessary or useful in connection with the operation of the Company's system, of which all of the total outstanding shares of capital stock having general voting rights is owned by the Company.

"Railroad Subsidiary Bonds" shall mean the bonds of a Railroad Subsidiary secured by a general lien on all or substantially all of its physical property, subject only to Equipment Obligations and liens in the nature of Permitted Encumbrances.

"Road Replacement Fund" shall mean the fund created and maintained by the Company in accordance with the provisions of Article VI.

"Securities" shall mean Debt Securities or Stocks or both.

"Service Life" when used with reference to the retirement of any non-depreciable road property not replaced shall mean the interval of time (to the nearest full year) between the date when such property was first placed in service and the date when such property was retired from service.

"Special Securities" shall mean Securities of a corporation or analogous legal entity in which the aggregate cost or investment of the Company is less than $5,000.

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

"Trustee" shall mean Central Hanover Bank and Trust Company or any corporation which shall be its successor as Trustee under the Mortgage.

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

"Value" shall mean, with respect to the unretired physical property of a Railroad Subsidiary, the fair value thereof to such Subsidiary and, with respect to Purchased Property, the fair value thereof to the Company in excess of the aggregate principal amount of indebtedness secured by Prior Liens and Equipment liens thereon, as determined by an Independent Engineer.

ARTICLE II

Description of Bonds

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

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

Section 2. The initial series of Bonds shall be designated as "Series A" and shall be limited in aggregate principal amount to $5,000,000, and the Bonds of Series A to be issued pursuant to Section 1 of Article III shall:

(a) be designated "First Mortgage 4% Income Bonds, Series A, due January 1, 1995";

(b) be dated as of the date of their authentication;

(c) mature January 1, 1995, unless previously redeemed pursuant to Article IV or declared due and payable pursuant to Article XVI;

(d) bear interest at the rate of 4% per annum from January 1, 1949, until the principal sum thereof becomes due and payable as herein provided, and, if default be made in the payment of said principal sum when so due and payable, thereafter (to the extent permitted by law) at the highest rate of interest borne by any of the Outstanding Bonds until the Company's obligation with respect to the payment of said principal sum shall be discharged as provided in the Mortgage; but until said principal sum becomes due and payable or until interest on said principal sum becomes fixed as provided in this Section 2, (i) such interest with respect to each calendar year prior to the calendar year immediately preceding the date of maturity of such principal sum will be payable on the first May 1 following such calendar year when and to the extent that the Available Net Income of the Com-

pany, as defined and made applicable to the payment of such interest, is adequate therefor under the terms and provisions of the Mortgage, (ii) interest of 4% on said principal sum for the calendar year 1994 will be paid on January 1, 1995, whether or not the Available Net Income of the Company for the calendar year 1994 is adequate for the payment of such interest, (iii) to the extent that the Available Net Income of the Company applicable to the payment of interest on such Bonds for any calendar year prior to the year 1994 shall be less than 4% of said principal sum, such interest shall accumulate if and to the extent that the Available Net Income for such calendar year has been reduced by reason of the extinguishment of any deficit or deficits in the Available Net Income for any prior year or years, and shall be payable when and to the extent that the Available Net Income for subsequent calendar years applicable to the payment of such accumulations is adequate therefor under the terms and conditions of the Mortgage, but all accumulations of interest that have not become payable on or before May 1, 1994, shall lapse and cease to be obligations of the Company, (iv) when an Event of Default shall occur, any unpaid accumulations of interest on such Bonds that have not lapsed as aforesaid, any interest reserved as hereinafter provided, and interest at the rate of 4% per annum from January 1 of the calendar year in which such Event of Default occurs to the date thereof, shall then be due and payable, (v) accumulations of interest on such Bonds shall not bear interest, (vi) except as aforesaid, no interest shall be required to be paid on such Bonds on any interest payment date if the amount then payable would be less than 25 cents on each $100 of said principal sum, but any amount available for interest not payable because of this provision shall be reserved and added to the amount available for, or payable on account of, interest on the next date on which interest shall be paid, (vii) interest shall be payable only to the extent not paid on or before the date of authentication thereof on an equivalent principal amount of Bonds, and (viii) after said principal sum becomes due and payable as herein provided, such interest shall not be contingent but shall be fixed until said principal sum is paid;

(e) provide that in the event Bonds of any other series bearing any interest payable unconditionally at a fixed rate, either from a date stated therein or from some fixed or determinable date thereafter, shall be issued under the Mortgage, the interest on all Bonds of Series A shall become fixed and unconditionally payable at the rate of 4% per annum for the full calendar year during which the interest on such Bonds of any other series becomes fixed and for all succeeding calendar years until the principal sum becomes due and payable, and shall be payable semi-annually on such dates as may be determined by the Board of Directors of the Company and as shall be provided in the supplemental indenture creating such other series, but any accumulations of unpaid interest on the Bonds of Series A for prior years shall continue to be payable on May 1 of the calendar year then current and succeeding calendar years to the extent of Available Net Income applicable to the payment of such accumulations under the provisions of the Mortgage, in which event the Company will make provision for the issuance of new Bonds of Series A in exchange and substitution for the Bonds of Series A then outstanding and for the manner of evidencing the rights of the holders of such substituted Bonds to receive such accumulations of unpaid interest;

(f) be payable, both as to principal and interest, at the office or agency of the Company in the Borough of Manhattan, City and State of New York, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts;

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

(h) be issued only in the form of registered Bonds without coupons in denominations of $100, $1,000, and, with the consent of the Company (such consent as to any particular Bond to be evidenced conclusively by the execution thereof by the officers on behalf of the Company), in denominations in multiples of $1,000; be exchangeable

for other Bonds of Series A of authorized denominations (except that Bonds of the denomination of $100 shall be exchangeable only for Bonds of the denomination of $1,000 or larger, and Bonds of the denomination of $1,000 or larger shall not be exchangeable for Bonds of the denomination of $100); and shall be transferable at the office or agency of the Company in the Borough of Manhattan, City and State of New York, as provided in Section 5 of this Article II;

(i) provide that each Bond of Series A delivered pursuant to the exercise of any privilege of transfer, exchange, or substitution for the whole or any part of one or more other Bonds of Series A (except new Bonds of Series A delivered by the Company in exchange and substitution for Bonds of Series A then outstanding in the event interest on Bonds of said series becomes payable unconditionally at a fixed rate, as provided in this Section 2) shall carry all of the rights to interest which were carried by the whole or such part of such one or more other Bonds of Series A at the time of transfer, exchange or substitution; and that as to each Bond of Series A delivered upon the exercise of any privilege of transfer, exchange or substitution, as aforesaid, interest shall be deemed to have been paid on said Bond to the extent paid, made available for payment, or under a provision similar to this deemed to have been paid, on an equal principal amount of the Bond or Bonds for which said Bond was transferred, exchanged or substituted;

(j) be entitled to the benefits of the Sinking Fund as provided in Section 1 of Article VIII; and

(k) be substantially in the form recited in the preambles of the Mortgage, and bear appropriate serial numbers.

In the event of the issuance of any Bonds of any other series bearing interest payable unconditionally at a fixed rate, either from a date stated therein or from some fixed or determinable date thereafter, then the Company, by the supplemental indenture creating such other series, shall make provision (a) for the issuance of new Bonds of Series A in the

form hereinbefore recited but with such omissions, variations and insertions as to designation, form and dates of payment of interest as may be appropriate, (b) for the exchange and substitution, without expense to the holder, of such new Bonds of Series A for the Bonds of Series A then outstanding, interest on which has or may become fixed by virtue of such event, and (c) for the manner of evidencing the rights of the registered holders of the Bonds of Series A then outstanding to receive any then unpaid accumulations of contingent interest, by the issuance of appropriate coupons or certificates of indebtedness or otherwise.

SECTION 3. The Bonds of series other than Series A, shall be substantially in the form hereinbefore recited for the Bonds of Series A, but with such provision and form for coupons, if any, to be attached to such thereof as may be coupon Bonds, and with such omissions, variations and insertions as may be authorized, permitted or required by the Mortgage and as may be prescribed in the supplemental indenture creating such other series.

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

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

(a) title;

(b) date;

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

(d) interest rate, the extent to which any portion of such interest shall be Contingent Interest, and the extent to which such Contingent Interest shall be cumulative;

(e) interest payment dates;

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

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

(h) provisions, if any, for exchanges as between denominations and forms, and the place or places for such exchanges;

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

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

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

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

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

(n) provisions, if any, for any sinking fund with respect to the Bonds of any series and the priority thereof over any sinking fund with respect to the Bonds of any series except Bonds of Series A; and

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

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

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

SECTION 4. The Bonds shall be signed on behalf of the Company by its President or a Vice President, and its corporate seal or a facsimile thereof shall be affixed thereto or imprinted or engraved thereon and attested by its Secretary or an Assistant Secretary. Only such Bonds as shall bear thereon a certificate of authentication executed by the Trustee substantially in the form hereinbefore recited shall be secured by the Mortgage or be entitled to any right or benefit hereunder; and no Bond and no coupon thereunto appertaining shall be or become valid or obligatory for any purpose until such certificate shall have been duly executed on such Bond. Such certificate executed by the Trustee upon any Bond executed by the Company shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered hereunder and is one of the Bonds described in the Mortgage. The Trustee shall not authenticate or deliver any coupon Bond until all matured coupons thereunto appertaining shall have been detached and cancelled, except as otherwise provided in Section 5 or Section 7 of this Article II.

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

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

SECTION 5. In all cases in which the privilege of exchanging Bonds of any series exists and is exercised, the Bonds to be exchanged shall be surrendered at any office or agency maintained by the Company in accordance with the provisions of Section 2 of Article IX with respect to the Bonds of such series, and the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor the Bond or Bonds which the holder making the exchange shall be entitled to receive. All coupon Bonds surrendered for exchange and delivered in exchange shall have attached thereto all unmatured coupons appertaining thereto and, in case at the time of any such exchange interest on the Bonds of the particular series is in default, shall in addition have attached thereto all matured coupons in default.

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

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

Upon presentation for registration of any coupon Bond registrable as to principal at any such office or agency, such Bond shall be registered as to principal in the name of the holder and the fact of such registration shall be noted on the Bond. No transfer of any coupon Bond so registered as to principal shall be valid unless made at any such office or agency and similarly noted on the Bond, but the same may be discharged from registration by being in like manner transferred to bearer, and thereupon transferability by delivery shall be restored. Coupon Bonds entitled to registration shall continue to be subject to successive registrations and transfers to bearer, at the option of the holders. Such registration of any coupon Bond shall not affect the negotiability of the coupons appertaining thereto, which shall continue to be payable to bearer and transferable by delivery.

All Bonds presented or surrendered for exchange, transfer, registration or discharge from registration as provided in this Section 5 shall be in bearer form or, if registered, shall

be accompanied by a written instrument or instruments of transfer in form approved by the Company duly executed by the registered holder or his legal representative, either in person or by duly authorized attorney.

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

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

If one or more Events of Default shall have occurred and be continuing, nevertheless the Company shall duly execute and the Trustee shall authenticate and deliver Bonds for the purposes of making the exchanges and transfers provided for in this Section 5.

SECTION 6. Pending the preparation of definitive Bonds of any series, the Company may execute and the Trustee shall authenticate and deliver one or more temporary Bonds (printed or lithographed) of such series with or without one or more coupons and of any denomination or denominations, in bearer form, registrable or not registrable as to principal, or in registered form, which shall be substantially in the form of the definitive Bonds of such series, but with any omissions, insertions and variations appropriate for temporary Bonds, all as authorized by the Board of Directors and as provided in the written order of the Company for the authentication

and delivery thereof. Every such temporary Bond shall be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Bonds. When definitive Bonds of any series are prepared and ready for delivery, the temporary Bonds of such series may be surrendered in exchange therefor, and the Trustee shall authenticate and deliver in exchange therefor, without expense to the holder, an equal aggregate principal amount of definitive Bonds of the same series and maturity. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefit and security of the Mortgage as definitive Bonds authenticated and delivered hereunder. Interest when and as payable upon temporary Bonds without coupons in bearer form and not registered as to principal shall be paid only upon presentation thereof for notation thereon of such payment.

When temporary Bonds of any series are authenticated and delivered, the Company will cause definitive Bonds of such series to be prepared without unreasonable delay.

SECTION 7. In case any temporary or definitive Bond and any coupons appertaining thereto shall become mutilated or be destroyed, lost or stolen, the Company in its discretion may execute, and upon the written request of the Company, signed by its President or a Vice President, the Trustee may authenticate and deliver, a new Bond (with coupons corresponding to the coupons, if any, appertaining to the mutilated, destroyed, lost or stolen Bond) of the same series and maturity and of like tenor, in exchange and substitution for the mutilated Bond and its coupons, if any, or in lieu of and substitution for the Bond and its coupons, if any, so destroyed, lost or stolen, or, if any such Bond or any coupon shall have matured or shall be about to mature or shall have been called for redemption, instead of issuing a substituted Bond or coupon the Company may pay the same without

surrender thereof. In case of destruction, loss or theft of any Bond or coupon, the applicant for a substituted Bond or for such payment shall furnish to the Company, to the Trustee and to any paying agent of the Company, in their discretion, evidence to their satisfaction of the destruction, loss or theft of such Bond and its coupons, if any, and of the ownership thereof, and also such security or indemnity as may be required by the Company, the Trustee and such paying agent to save each of them harmless. The Trustee may authenticate any such substituted Bond and deliver the same with appurtenant coupons, if any, or the Trustee or any paying agent of the Company may make any such payment, upon the written request or authorization of the Company, signed by its President or a Vice President, and shall incur no liability to anyone by reason of anything done or omitted to be done by it in good faith under the provisions of this Section 7. Upon the issue of any substituted Bond, the Company may require the payment of a sum sufficient to cover any tax or taxes or other governmental charge and any other expense connected therewith, and also a further sum not exceeding $2.00 for each Bond so issued in substitution.

Notwithstanding any limitations contained in the Mortgage, any Bonds and coupons issued under the provisions of this Section 7 shall constitute original contractual obligations, in accordance with their terms, on the part of the Company, and shall be equally and proportionately entitled to the benefit and security of the Mortgage with all other Bonds and coupons issued under the Mortgage, in accordance with the terms thereof.

SECTION 8. Except as otherwise provided in the Mortgage, all Bonds (and appurtenant coupons, if any) surrendered for the purpose of payment, redemption, exchange or transfer shall either be surrendered to the Company or any paying agent and by it delivered to the Trustee, or be surrendered

to the Trustee, and shall be cancelled by the Trustee as and when so delivered or surrendered to it, and no Bonds or appurtenant coupons shall be issued under the Mortgage in lieu of Bonds or appurtenant coupons so surrendered except as expressly permitted by any of the provisions of the Mortgage. All coupons surrendered to the Company or any paying agent for the purpose of payment shall be cancelled and delivered to the Trustee.

The Trustee shall make appropriate notations in its records in respect of all Bonds and appurtenant coupons cancelled as aforesaid, shall cremate all such cancelled coupon Bonds not registered as to principal and all cancelled coupons, and shall, at the direction of the Company, cremate all such cancelled coupon Bonds registered as to principal and registered Bonds without coupons, and shall deliver a certificate of any such cremation to the Company.

If the Company shall acquire any of the Bonds otherwise than as aforesaid, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Bonds unless and until the same are surrendered to the Trustee for cancellation.

ARTICLE III

Issuance of Bonds

Section 1. Upon the execution and delivery of the Mortgage, and whether before or after the recording of the Mortgage, Bonds of Series A in the aggregate principal amount of Five Million Dollars ($5,000,000) may be executed by the Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Company, signed by its President or a Vice President, without any further action on the part of the Company.

Section 2. No Bonds other than those authenticated and delivered pursuant to Section 1 of this Article III shall be authenticated or delivered by the Trustee pursuant to the provisions of this Article III at any time when an Event of Default shall have occurred and be continuing.

Section 3. From time to time and in the manner provided in this Section 3, Bonds of one or more series, other than Series A, may be executed by the Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Company, signed by its President or a Vice President, in an aggregate principal amount not exceeding 75% of the Net Expenditures for Additions and Betterments during a period beginning not more than 36 months prior to the date of the Application for the authentication of such Bonds; provided, however, that no Bonds shall be authenticated and delivered (i) on the basis of Net Expenditures for Additions and Betterments that have theretofore been Bonded, or (ii) on the basis of Net Expenditures for Additions and Betterments during such period in a principal amount which, when added to the amount of expenditures from the Road Replacement Fund for or on account of Expenditures for Additions and Betterments during such period, would exceed the Net Expenditures for Additions and Better-

ments during such period, or (iii) unless the Company shall have expended all of the funds which it has covenanted to apply only to Expenditures for Additions and Betterments under the provisions of Section 24 of Article IX, or (iv) unless there are no funds remaining in the Road Replacement Fund available for Expenditures for Additions and Betterments, or (v) if the authentication and delivery of such Bonds will result in a violation of the covenant in respect of interest coverage in Section 23 of Article IX.

Bonds shall be authenticated and delivered under this Section 3 upon delivery to the Trustee in each case of:

(a) An Application for the authentication of Bonds under this Section 3, stating the principal amount of Bonds the authentication of which is applied for;

(b) The documents specified in Section 9 of this Article III;

(c) An Officers' Certificate stating:

(1) A description of the unretired Additions and Betterments the Expenditures for which are made the basis of the Application, in such reasonable detail as shall be sufficient to permit identification thereof, a specification of such thereof as may be located on leaseholds, and that such Expenditures were made by the Company during a period beginning not more than 36 months prior to the date of the Application and have not theretofore been Bonded;

(2) The amount of Expenditures for Additions and Betterments during such period;

(3) The aggregate amounts credited to Capital Accounts prior to the date of the Application, in accordance with the Uniform System of Accounts, by reason of the retirement of any Additions and Betterments for which such Expenditures were made;

(4) The aggregate amounts provided by the Company prior to the date of such Application for depreciation of the Additions and Betterments for which such Expenditures were made;

(5) The amount of Net Expenditures for Additions and Betterments during such period;

(6) The amount of Expenditures for Additions and Betterments made from the Road Replacement Fund during such period;

(7) The principal amount of Bonds that could be authenticated on the basis of the Application, and the principal amount of Bonds the authentication of which is applied for in the Application; and

(8) That the Company has expended all of the funds which it has covenanted to apply only to Expenditures for Additions and Betterments under the provisions of Section 24 of Article IX, and that there are no funds remaining in the Road Replacement Fund available for Expenditure for Additions and Betterments.

(d) All such deeds, supplemental indentures or instruments of further assurance, if any, as in the Opinion of Counsel furnished pursuant to subsection (e) below may be specified as necessary or advisable to subject to the lien of Mortgage the property included in the unretired Additions and Betterments shown in the Officers' Certificate required by subsection (c) above, or, in the case of Additions and Betterments located on leaseholds, to subject such leaseholds to such lien; and

(e) An Opinion of Counsel that (i) all property included in the unretired Additions and Betterments shown in the Officers' Certificate required by subsection (c) above is subject to the lien of the Mortgage, or will become subject to such lien upon the delivery and recording or filing of such deeds, supplemental indentures or instruments of further assurance, if any, as are specified in said Opinion of Counsel, subject to no defect in title and subject to no lien thereon equal or prior to the lien of the Mortgage except Permitted Encumbrances, and (ii) if any such property is located on any leasehold, as shown by the Officers' Certificate, that such leasehold is subject to the lien of the Mortgage, or will become subject to such

lien upon the delivery and recording or filing of the deeds, supplemental indentures, or instruments of further assurance, if any, specified in said Opinion of Counsel, and extends for a term beyond the latest maturity date of any Bonds outstanding or for the authentication and delivery of which application is being made, or that, under the terms of such leasehold, the Company has the right to be reimbursed in respect of the Expenditures for such Additions and Betterments or the right to remove such Additions and Betterments upon the termination thereof, and that all of the Company's interest in such leasehold (except the last day of the term thereof), including any such right of reimbursement, has been pledged with the Trustee; provided that such Opinion of Counsel may recite that it is based upon certificates or opinions of officers or engineers of the Company as to any factual matters not of public record.

SECTION 4. From time to time and in the manner provided in this Section 4, Bonds of one or more series, other than Series A, may be executed by the Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Company, signed by its President or a Vice President, for the purpose of acquiring Purchased Property, but in an aggregate principal amount not exceeding 75% of the Cost thereof, or, if such Purchased Property is to be acquired subject to any Prior Lien thereon or indebtedness secured by lien on any Equipment included therein, in an aggregate principal amount not exceeding an amount which, when added to the principal amount of the indebtedness secured by such Prior Liens and Equipment liens, will equal 75% of the sum of the Cost or Value, whichever is less, of such Purchased Property and the aggregate principal amount of such indebtedness, provided, however, (i) that such Purchased Property has not theretofore been Bonded, and (ii) that the authentication and delivery of such Bonds will not result in a violation of the covenant in respect of interest coverage in Section 23 of Article IX.

Bonds shall be authenticated and delivered under this Section 4 upon delivery to the Trustee in each case of:

(a) An Application for the authentication of Bonds under this Section 4, stating the principal amount of Bonds the authentication of which is applied for;

(b) The documents specified in Section 9 of this Article III;

(c) An Officers' Certificate stating:

(1) A description in reasonable detail of the Purchased Property for the acquisition of which the authentication of Bonds is applied for in the Application and a statement that such Purchased Property has not theretofore been Bonded;

(2) The Cost of such Purchased Property determined in accordance with the definition of Cost, when used with reference to Purchased Property, in Article I;

(3) If such Purchased Property is to be acquired subject to any Prior Lien or indebtedness secured by lien on any Equipment included therein, a description of each such Prior Lien and Equipment lien and the principal amount of indebtedness secured thereby, and a statement of the Value of such Purchased Property to the Company as evidenced by an Independent Engineer's Certificate attached to such Officers' Certificate; and

(4) A computation showing the principal amount of Bonds that could be authenticated on the basis of the Application, and the principal amount of Bonds the authentication of which is applied for in the Application.

(d) All such deeds, supplemental indentures or instruments of further assurance, if any, as in the Opinion of Counsel furnished pursuant to subsection (e) below may be specified as necessary or advisable to subject such Purchased Property to the lien of the Mortgage; and

(e) An Opinion of Counsel that all of such Purchased Property is subject to the lien of the Mortgage, or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures or instruments of further assurance, if any, specified in said Opinion of Counsel, subject to no defect in title and subject to no lien equal or prior to the lien of the Mortgage except the Prior Liens and Equipment liens described in the Officers' Certificate required by subsection (c) above, and Permitted Encumbrances.

SECTION 5. From time to time and in the manner provided in this Section 5, Bonds of one or more series, other than Series A, may be executed by the Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Company, signed by its President or a Vice President, in an aggregate principal amount not exceeding the principal amount of Bonds of any other series which shall have been cancelled or surrendered to the Trustee for cancellation or for the payment or redemption of which cash in the necessary amount shall have been irrevocably deposited in trust with the Trustee or in trust with any agency satisfactory to the Trustee; provided, however, that (i) no Bonds shall be authenticated and delivered under this Section 5 on the basis of Bonds of any other series theretofore Bonded, or theretofore acquired, retired, cancelled or paid through the operation of any sinking fund or analogous fund established pursuant to the Mortgage, and (ii) in case of the redemption of Bonds of any other series, all action and notice required for such redemption shall have been taken and given, or provision made therefor satisfactory to the Trustee.

Bonds shall be authenticated and delivered under this Section 5 upon delivery to the Trustee in each case of:

(a) An Application for the authentication of Bonds under this Section 5, stating the principal amount of Bonds the authentication of which is applied for;

(b) The documents specified in Section 9 of this Article III, except clause (f) thereof;

(c) An Officers' Certificate which shall (i) describe and state the amount of Bonds the cancellation or surrender for cancellation or the payment or redemption of which forms the basis of the Application; (ii) state that said Bonds have not theretofore been Bonded or acquired, retired, cancelled or paid through the operation of any sinking fund or analogous fund established pursuant to the Mortgage; and (iii) state that the cash deposited in trust as required by subsection (d) of this Section 5 is not otherwise required to be deposited with the Trustee or used under any provision of the Mortgage; and

(d) Either (i) said Bonds, cancelled or for cancellation, which form the basis of the Application, together with all unmatured coupons and all unpaid matured coupons appertaining thereto funds for the payment of which have not been provided, or (ii) cash in trust in the necessary amount for the payment or redemption thereof, or evidence that such amount of cash has been deposited in trust with an agency satisfactory to the Trustee, and, in case of such redemption, evidence that due notice of redemption has been given or provided for to the satisfaction of the Trustee.

Bonds of any other series made the basis for the authentication and delivery of Bonds under this Section 5, together with all coupons appertaining thereto, if not cancelled when delivered to the Trustee, shall be cancelled by the Trustee and shall not thereafter be made the basis for the authentication and delivery of any Bonds, the release of any property, the withdrawal, payment or application of any cash held by the Trustee or otherwise used under any provision of the Mortgage.

SECTION 6. From time to time and in the manner provided in this Section 6, Bonds of one or more series, other than Series A, may be executed by the Company and shall be authenticated by the Trustee and delivered to or upon the

written order of the Company, signed by its President or a Vice President, in an aggregate principal amount not exceeding the principal amount of any Outstanding Prior Lien Bonds not theretofore Bonded which shall have been pledged and deposited with the Trustee uncancelled; provided, however, that no Bonds shall be authenticated and delivered under this Section 6 on the basis of Outstanding Prior Lien Bonds in excess of a principal amount which, when added to the sum of the principal amount of Bonds theretofore authenticated and delivered in respect of the acquisition by the Company of the Purchased Property securing such Outstanding Prior Lien Bonds and the principal amount of indebtedness secured by Prior Liens and Equipment liens on such Purchased Property, would exceed 75% of the sum of the Cost or Value, whichever was less, of such Purchased Property and the aggregate principal amount of indebtedness secured by Prior Liens and Equipment liens thereon at the time of acquisition of such Purchased Property by the Company.

Bonds shall be authenticated and delivered under this Section 6 upon the delivery to the Trustee in each case of:

(a) An Application for the authentication of Bonds under this Section 6, stating the principal amount of Bonds the authentication of which is applied for;

(b) The documents specified in Section 9 of this Article III;

(c) An Officers' Certificate which shall (i) describe and state the amount of the Outstanding Prior Lien Bonds the pledge and deposit of which with the Trustee forms the basis of the Application, (ii) state that said Prior Lien Bonds are Outstanding Prior Lien Bonds and have not theretofore been Bonded, and (iii) set forth a computation showing the principal amount of Bonds that could be authenticated on the basis of the Application, and the principal amount of Bonds the authentication of which is applied for in the application;

(d) Said Outstanding Prior Lien Bonds uncancelled which form the basis of the Application, together with all unmatured coupons and all unpaid matured coupons appertaining thereto, if any; and

(e) An Opinion of Counsel that all Outstanding Prior Lien Bonds required to be pledged and deposited with the Trustee by clause (d) above are subject to the lien of the Mortgage or will become subject to such lien upon delivery thereof or delivery of the instruments, if any, specified in said Opinion of Counsel; and that the Company has valid title to such Outstanding Prior Lien Bonds and the right to own and pledge the same free from any other lien.

Prior Lien Bonds made the basis for the authentication and delivery of Bonds under this Section 6, together with all coupons appertaining thereto, shall be held by the Trustee uncancelled and without extinguishment or impairment of the Prior Lien securing the same, except as effected as a matter of law by the acquisition thereof by the Company, and shall not thereafter be made the basis for the authentication and delivery of any Bonds, the release of any property, the withdrawal, payment or application of any cash held by the Trustee or otherwise used under any provision of the Mortgage; provided, however, that the Trustee, at the request of the Company, shall deliver any such Prior Lien Bonds to the trustee under the mortgage, deed of trust or other instrument under which the same may have been issued or which may secure the same for the purpose of obtaining the release, satisfaction and discharge of such mortgage, deed of trust or other instrument if it is furnished with an Opinion of Counsel that the property on which such mortgage, deed of trust or other instrument constitutes a lien is owned by the Company and is subject to the lien of the Mortgage, and that there is no other lien on such property, except Permitted Encumbrances, which is prior to the lien of the Mortgage.

SECTION 7. From time to time and in the manner provided in this Section 7, Bonds of one or more series, other than Series A, may be executed by the Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Company, signed by its President or a Vice President, for the purpose of acquiring Railroad Subsidiary Bonds of a Railroad Subsidiary, subject to the condition that Bonds may be authenticated and delivered under this Section 7 to acquire Railroad Subsidiary Bonds not then Bonded to the extent only of the principal amount of such Railroad Subsidiary Bonds or the Cost to the Company therefor, whichever shall be less, and to the extent only that the principal amount of such Railroad Subsidiary Bonds does not exceed an amount which, when added to the principal amount of all Railroad Subsidiary Bonds of such Railroad Subsidiary, will equal 75% of the Value of the then unretired physical property of such Railroad Subsidiary.

Bonds shall be authenticated and delivered under this Section 7 upon the delivery to the Trustee in each case of:

(a) An Application for the authentication of Bonds under this Section 7, stating the principal amount of Bonds the authentication of which is applied for;

(b) The documents specified in Section 9 of this Article III;

(c) An Officers' Certificate which shall:

(1) Name the corporation the bonds of which are to be pledged and deposited with the Trustee, and state that such corporation is a Railroad Subsidiary;

(2) State the principal amount of all Railroad Subsidiary Bonds of such Railroad Subsidiary then outstanding, the principal amount thereof to be pledged and deposited concurrently with the Trustee, the Cost thereof to the Company, and the Value of the then unretired physical property of such Railroad Subsidiary as determined by an Independent Engineer;

(3) Furnish a computation showing that the principal amount of Bonds the authenication of which is applied for in the Application meets the requirements of this Section 7; and

(4) State that the Railroad Subsidiary Bonds made the basis for the authentication of Bonds under the Application have not theretofore been Bonded.

(d) An Independent Engineer's Certificate stating the Value of the then unretired physical property of such Railroad Subsidiary;

(e) All Railroad Subsidiary Bonds to be pledged and deposited with the Trustee under the Application; and all such instruments, if any, as in the Opinion of Counsel furnished pursuant to subsection (f) below may be stated to be necessary or advisable to subject such securities to the lien of the Mortgage;

(f) An Opinion of Counsel that all Railroad Subsidiary Bonds of each Railroad Subsidiary required to be pledged and deposited with the Trustee by subsection (e) above are subject to the lien of the Mortgage or will become subject to such lien upon delivery thereof or delivery of the instruments, if any, specified in said Opinion of Counsel; that the Company has valid title to such securities and the right to own and pledge the same, free from any other lien; that such securities have been duly authorized by all corporate authority required under the laws of the state of incorporation, the charter (or other document of organization) and the by-laws of the Railroad Subsidiary issuing the same; that no authorization by any commission or governmental authority is required by law for the issue of such securities or for the valid ownership thereof by the Company or the pledge thereof as provided in this Section 7, except such authorization as shall be specified in said Opinion of Counsel, and which shall be evidenced by copies of the orders or certificates so specified, appropriately certified; and that the said Railroad Subsidiary Bonds of each such Railroad Subsidiary are valid obligations thereof and are secured by a valid general lien on all or sub-

stantially all of the physical property of such subsidiary; and

(g) A Certified Resolution to the effect that each Railroad Subsidiary referred to in the Application owns one or more lines of railroad, bridges or railroad terminals directly connected with the lines of railroad owned by the Company and deemed by the Board of Directors to be necessary or useful in connection with the operation of the Company's system.

SECTION 8. From time to time and in the manner provided in this Section 8, Bonds of one or more series, other than Series A, may be executed by the Company and shall be authenticated by the Trustee and delivered to or upon the written order of the Company, signed by its President or a Vice President, upon the deposit by the Company with the Trustee of a sum in cash equal to the principal amount of the Bonds so to be authenticated and delivered, and upon delivery by the Company to the Trustee of:

(a) An Application for the authentication of Bonds under this Section 8, stating the principal amount of Bonds the authentication of which is applied for;

(b) The documents specified in Section 9 of this Article III, unless the Company shall state in the Application that it proposes to use the deposited cash to pay or redeem Bonds, in which event the document specified in clause (f) of Section 9 of this Article III need not be furnished; and

(c) An Officers' Certificate which shall certify that any cash so deposited with the Trustee is not otherwise required to be deposited with the Trustee or used under any provision of the Mortgage.

All cash so deposited (herein sometimes referred to as "escrowed cash") shall be held by the Trustee as part of the mortgaged property and may be withdrawn by the Company upon its written order, signed by its President or a Vice President, accompanied by an Application therefor and a Certified Resolution authorizing such Application, in an amount equal to and in lieu of the principal amount of Bonds to the authentication and delivery of which the Company would be entitled under the provisions of Sections 3, 4, 5, 6 or 7 of this Article III. Upon applying for any such withdrawal in lieu of the authentication and delivery of Bonds, the Company shall comply with all applicable provisions of this Article III relating to the authentication and delivery of such Bonds, except that the Company shall not be required to comply with any of the provisions of Section 9 of this Article III other than clause (d)(4) (with such changes as shall be appropriate to the withdrawal of escrowed cash), clause (e) and (unless such withdrawal is made in lieu of the authentication and delivery of Bonds under Section 5 of this Article III) clause (f) of said Section 9.

Bonds surrendered to the Trustee as the basis for the withdrawal of any escrowed cash under this Section 8, together with all coupons appertaining thereto, if not cancelled when delivered to the Trustee, shall be cancelled by the Trustee and shall not thereafter be made the basis for the authentication and delivery of any Bonds, the release of any property, the withdrawal, payment or application of any cash held by the Trustee or otherwise used under any provision of the Mortgage.

The Company shall not be entitled to withdraw any escrowed cash pursuant to the provisions of this Section 8 at any time when an Event of Default shall have occurred and be continuing.

SECTION 9. Whenever applying for the authentication of any Bonds, other than Bonds of Series A, under the provisions of this Article III, subject to the exceptions specified in subsection (b) of Sections 5 and 8 of this Article III, the Company shall cause to be delivered to the Trustee:

(a) A Certified Resolution authorizing the proposed issue of Bonds in a specified principal amount pursuant to a specified section or sections of this Article III, requesting the authentication and delivery thereof and either (i) stating that such Bonds are of a designated series previously authorized, or (ii) authorizing the execution and delivery of the supplemental indenture provided for in subsection (b) of this Section 9;

(b) If such Bonds are to be of a series not previously authorized, a supplemental indenture duly creating the proposed series and specifying as provided in Section 3 of Article II the particular provisions of the Bonds of such series;

(c) A copy authenticated in a manner satisfactory to the Trustee of any orders or certificates of any commissions or public regulatory bodies or other governmental authorities shown by the Opinion of Counsel referred to in subsection (d) of this Section 9 to be required by law for the issue of such Bonds;

(d) An Opinion of Counsel that

(1) no authorization or approval by any commission or public regulatory body or other governmental authority is required by law for the issue of such Bonds except such authorizations as are specified in such Opinion;

(2) the Company is entitled by law and by the terms of the Mortgage to the authentication and delivery of such Bonds;

(3) the authentication and delivery of such Bonds has been duly authorized by all requisite corporate action on the part of the Company;

(4) the Applications, certificates, orders and other documents delivered to the Trustee conform to the requirements of the Mortgage and constitute sufficient authority hereunder for the Trustee to authenticate and deliver such Bonds; and

(5) such Bonds when duly executed, authenticated and delivered and issued for consideration will constitute valid and outstanding obligations of the Company according to their terms and will be secured by the Mortgage in accordance with its terms;

(e) An Officers' Certificate stating that no Event of Default has occurred and is continuing; and

(f) An Interest Coverage Certificate showing that the authentication and delivery of such Bonds will not result in a violation of the covenant in respect of interest coverage in Section 23 of Article IX.

ARTICLE IV

Redemption of Bonds

Section 1. The Company, at its option, may redeem the Bonds of Series A as a whole at any time, or in part by lot from time to time, at a redemption price equal to the principal sum thereof plus (i) all unpaid Fixed Interest and all unpaid accumulations of Contingent Interest thereon for prior years, (ii) interest reserved in accordance with clause (vi) of subsection (d) of Section 2 of Article II, and (iii) interest at the rate of 4% per annum from January 1 of the next preceding calendar year to the date fixed for redemption reduced by the amount of interest, if any, otherwise paid or made available for payment thereon for such preceding calendar year. Registered Bonds without coupons for principal amounts exceeding $1,000 may be redeemed in portions amounting to $1,000 or multiples of $1,000, with interest as aforesaid on the principal sum to be redeemed.

Upon the creation of any other series of Bonds the Company may reserve the right to redeem on any date prior to maturity all or from time to time any part of the Bonds of such series at such time or times and on such terms as shall be determined by the Board of Directors and specified in the supplemental indenture providing for the creation of such series and as shall be appropriately expressed in the Bonds of such series.

Except as otherwise provided in respect of Bonds of any particular series, the procedure for redemption of Bonds of all series which by their terms are redeemable shall be as hereinafter in this Article IV provided.

Section 2. In case the Company shall desire to exercise such right to redeem all or any part of the Bonds of a particular series in accordance with the right reserved so to do, it shall publish a notice of such redemption in a Daily News-

paper in each city in which the principal of such Bonds is payable, such publication to be not less than 60 days and not more than 90 days before the date fixed for redemption. Such notice shall specify the series of the Bonds to be redeemed, the date fixed for redemption and the redemption price thereof, and shall state that payment of such redemption price will be made at the office or agency or at the offices or agencies of the Company at which the principal of such Bonds is payable, and that on and after said date interest thereon will cease to accrue. A copy of such notice shall be mailed by the Company at least 60 days prior to the date fixed for redemption to the Trustee and to the registered holders of registered Bonds without coupons and of coupon Bonds registered as to principal so to be redeemed, at their last addresses as they shall appear upon the bond registry books, but neither failure to give such notice by mail, nor any defect therein, shall affect the validity of the proceedings for the redemption of the Bonds.

If the Company shall elect to redeem less than all of the Bonds of any series then outstanding, it shall give the Trustee adequate notice in advance of the aggregate principal amount of the Bonds of such series to be redeemed, and thereupon the Trustee shall draw by lot from the Outstanding Bonds, in such manner as it shall deem appropriate (and for that purpose the Company will, upon request of the Trustee, close or cause to be closed for a period not exceeding 10 days the bond registry books), the distinguishing numbers of a principal amount of Bonds equal to such aggregate principal amount of Bonds to be redeemed. In any drawing by lot under this Section 2, each registered Bond without coupons for a principal amount in excess of $1,000 shall be represented by a separate number for each $1,000 of its principal amount. The Trustee, after such drawing, shall promptly notify the Company in writing of the serial numbers of the Bonds so drawn, and in the case of any registered Bond without coupons to be redeemed in part only, the portion

of the principal amount thereof to be redeemed. The notice of redemption shall specify the numbers of coupon Bonds and registered Bonds without coupons so drawn, and in case of any registered Bond without coupons which is to be redeemed in part only (by reason of the fact that distinguishing numbers representing only part of the principal amount thereof shall have been so drawn), the notice shall specify the serial number of such Bond and the portion of the principal amount thereof to be redeemed and shall state that on and after the date fixed for the redemption, upon surrender of such registered Bond, new Bonds of the same series and maturity in principal amount equal to the unredeemed portion of such registered Bond will be issued without expense to the holder of such registered Bond.

Section 3. If publication of notice of redemption shall have been completed as above provided, the Bonds or portions of Bonds specified in such notice shall become due and payable on the date and at the place stated in such notice, at the applicable redemption price, and on and after such date (unless the Company shall fail to deposit with the Trustee, as hereinafter provided, funds sufficient for the payment of such Bonds at the redemption price) interest on the Bonds or portions of Bonds so called for redemption shall cease to accrue, and the coupons for such interest payable after the date fixed for redemption shall be void. On presentation and surrender of such Bonds on or after such date at any place or places of payment in said notice specified, accompanied by appropriate transfer powers in blank in the case of coupon Bonds registered as to principal and registered Bonds without coupons, and with all coupons, if any, thereto appertaining and maturing on or after such date, they shall be paid and redeemed by the Company at the applicable redemption price. If the Company, having completed publication of notice of redemption as required, fails so to deposit, or to direct the application from cash so available and held by the Trustee, of a sum of money equal to such redemption price, the Bonds

so called for redemption, nevertheless, shall become due and payable on the date fixed for redemption.

Upon presentation of any registered Bond without coupons which is redeemed in part only, the Company shall execute and the Trustee shall authenticate and deliver to the registered holder thereof, without expense to such holder, a new registered Bond or Bonds without coupons or new coupon Bonds of the same series and maturity in principal amount equal to the unredeemed portion of the Bond so presented.

Section 4. If the Company shall deposit in trust with the Trustee on, or within 60 days prior to, the date fixed for redemption an amount in cash sufficient to redeem all Bonds, or portions thereof, then called or to be called for redemption, and shall furnish to the Trustee proof satisfactory to it that notice of redemption of such Bonds has been published as herein provided, or provision satisfactory to the Trustee shall have been made for giving such notice, then the Bonds or portions of Bonds to be redeemed shall no longer entitle the holders thereof to any right or benefit under the Mortgage, save and except the right to receive the redemption price therefor, and such Bonds or portions thereof to be redeemed shall no longer be considered as Outstanding Bonds.

All moneys deposited with the Trustee for the redemption of Bonds shall be held in trust for the benefit of the holders of such Bonds, but subject to the provisions of Section 4 of Article XVIII.

Section 5. If the date fixed for redemption be a legal holiday or a day on which banking institutions are authorized by law to be closed, then payment of the redemption price may be made on the next succeeding day that is not a legal holiday or a day on which banking institutions are authorized by law to be closed, with the same force and effect as if made on the nominal date fixed for redemption, and no interest shall accrue for the period after the date fixed for redemption.

ARTICLE V

Available Net Income

Section 1. The Company covenants that Available Net Income for each calendar year, beginning with the calendar year 1949, and continuing as long as any Bonds are outstanding under the Mortgage, shall be determined and applied as provided in this Section 1, subject to the provisions of Section 5 of this Article V.

The Available Net Income for the calendar year 1949 and for each calendar year thereafter shall be determined not later than April 1 of the following calendar year; and Available Net Income for each calendar year shall be applied, to the extent that the same shall suffice therefor, during the succeeding calendar year for the following purposes and in the following order:

(a) To the pro rata payment of the currently payable Contingent Interest on all Outstanding Bonds, but not the unpaid accumulations of Contingent Interest thereon;

(b) To the payment of the unpaid accumulations of Contingent Interest on the Outstanding Bonds of all series, apportioned among the Outstanding Bonds of the several series according to their respective unpaid accumulations of interest;

(c) To the payment of any amounts currently required to be paid into the Road Replacement Fund out of Available Net Income pursuant to the provisions of clause (d) of Section 1 of Article VI;

(d) To the payment of any amounts required to be paid into the Road Replacement Fund out of Available Net Income pursuant to the provisions of clause (d) of Section 1 of Article VI, the payment of which has been postponed from a prior calendar year or years as permitted by Section 1 of Article VI; and

(e) To the payment of any amounts currently required to be paid into the Sinking Fund pursuant to the requirements of Sections 2 and 3 of Article VIII.

Subject to the provisions of Section 21 of Article IX, any remaining Available Net Income may be applied (without restriction as to the year of application) as the Board of Directors may determine to the payment of dividends on the capital stock of the Company, or to any other corporate purposes.

No Contingent Interest shall be required to be paid under any provision of this Section 1 if the amount so to be paid would be less than 25 cents on each $100 of the principal amount of any Contingent Interest bearing obligations and all payments of contingent interest shall be made in multiples of one cent for each $100 of the principal amount of such obligation. Any excess available for interest not paid because of this provision shall be reserved by the Company and added to the amount available for, or payable on account of, such interest on the next date upon which interest shall be paid.

Section 2. If the Contingent Interest on the Bonds of any series shall become Fixed Interest, the requirement to apply Available Net Income for such interest shall cease and the Available Net Income shall be applied thereafter to the other purposes and in the order of priority specified in Section 1 of this Article V.

Section 3. On or before April 1 of each year, beginning with the year 1950, the Company shall file with the Trustee a Certified Resolution determining the Available Net Income for the preceding calendar year, and a report signed by the President or a Vice President and by the Chief Accounting Officer showing the calculations in reasonable detail of the amount of Available Net Income for the preceding calendar year and the application thereof made or to be made by the Company pursuant to the provisions of clauses (a) through (e) of Section 1 of this Article V.

In determining Available Net Income for any year the members of the Board of Directors may rely upon and shall be

fully protected in relying upon any statement signed by the Chief Accounting Officer as to any facts set forth therein and upon advice of counsel as to the meaning and application of any provision of the Mortgage.

Section 4. The Company, in the discretion of the Board of Directors, may pay the Contingent Interest, and the unpaid accumulations thereof, on the Bonds of any series, for any year out of any funds lawfully available therefor although there be no Available Net Income applicable thereto.

Section 5. The provisions of this Article V are hereby made expressly subject to each and all of the remedies of the Trustee or the Bondholders as set forth in Article XVI, and the operation of the provisions of this Article V shall be suspended during the continuance of either of the Events of Default specified in clause (f) or clause (g) of Section 2 of Article XVI.

ARTICLE VI

Road Replacement Fund

Section 1. The Company covenants that it will create and maintain a fund to be known as the "Road Replacement Fund," and that on or before April 1 in each year, beginning with the year 1950, and continuing as long as any Bonds are outstanding under the Mortgage, but subject to the provisions of Section 5 of this Article VI, it will pay into the Road Replacement Fund in cash:

(a) Such amounts as the Company shall charge to operating expenses in respect of the next preceding calendar year for depreciation of roadway and structures, which shall be not less than the amounts required therefor by the Interstate Commerce Commission or other public regulatory body having jurisdiction or, if no specific amount or rate of depreciation is so required, then such reasonable amount therefor as shall be established by the Board of Directors within the maximum amount or rate permitted by such Commission or other public regulatory body;

(b) Such other amounts as the Company shall charge to operating expenses in respect of such preceding calendar year for write-offs or amortization of investments in roadway and structures in accordance with the Uniform System of Accounts or by direction or authority of the Interstate Commerce Commission or other public regulatory body having jurisdiction;

(c) Such amounts as the Company shall recover as proceeds from salvage recovered during such preceding calendar year from mortgaged property retired;

(d) Such amounts as shall be added to consolidated income for such preceding calendar year by reason of charges to operating expenses on account of non-depreciable road property retired and not replaced as required by clause (a)(1) of the definition of Available Net Income in Article I, but only to the extent of the Available Net

Income applicable to such payment under clause (c) of Section 1 of Article V; and

(e) Such other amounts as the Company shall charge to operating expenses in respect of such preceding calendar year representing the service value (i.e. the ledger value less the salvage and insurance recovered, if any) of the following classes of road property retired:

(i) Non-depreciable road property retired and replaced;

(ii) Non-depreciable road property retired and not replaced, to the extent that such charges have not been included in Available Net Income for such preceding calendar year; and

(iii) Depreciable road property, reduced by an amount which bears the same ratio to the amount so charged to operating expenses as the portion of the Service Life of such property prior to January 1, 1949, bears to the total Service Life of such property;

If Available Net Income for any calendar year applicable to the payment of Contingent Interest on Outstanding Bonds is attributable to the addition to consolidated income of amounts charged to operating expenses during such calendar year on account of non-depreciable road property retired and not replaced as required by clause (a)(1) of the definition of Available Net Income in Article I, then to that extent payments into the Road Replacement Fund required by clause (d) above shall be postponed until the next calendar year or years in which and to the extent that there is Available Net Income applicable to such payment under clause (d) of Section 1 of Article V.

If in any calendar year there is a deficit in consolidated income after fixed charges of the Company and its Railroad Subsidiaries and a deficit in Available Net Income, the aggregate amount payable into the Road Replacement Fund in the next succeeding calendar year under this Section 1 (exclusive

of clause (c) above) need not exceed the amount obtained by subtracting the deficit in Available Net Income from the aggregate of the amounts that would be payable into the Road Replacement Fund under this Section 1 (exclusive of clause (c) above) if there were no such deficit.

Section 2. All amounts that are paid into the Road Replacement Fund shall be segregated from the general funds of the Company, shall be held by the Company in a separate bank account or invested in direct or guaranteed obligations of the United States of America, and, subject to the provisions of Section 3 of this Article VI, shall be expended to pay, or to reimburse the treasury of the Company for, all or any part of such cash Expenditures for Additions and Betterments as have not been Bonded.

On or before April 1 in each year, beginning with the year 1951, the Board of Directors may, however, in its discretion, withdraw from the Road Replacement Fund and deposit in the Sinking Fund created and maintained in accordance with Article VIII all or any part of the unexpended balance remaining in the Road Replacement Fund on December 31 of the next preceding year.

Section 3. No expenditures shall be made from the Road Replacement Fund for the purpose provided in the first paragraph of Section 2 of this Article VI if the Company shall not have expended all of the funds which it has covenanted to apply only to Expenditures for Additions and Betterments under the provisions of Section 24 of Article IX.

Section 4. The Company covenants that on or before April 1 of each year, beginning with the year 1951, it will deliver to the Trustee a report signed as in the case of an Officers' Certificate, which report shall state separately with respect to the preceding calendar year (i) the amounts of all payments into the Road Replacement Fund required under the provisions of Section 1 of this Article VI and a computa-

tion showing the determination of such amounts in accordance with the provisions of said Section 1; (ii) the amounts of all expenditures from the Road Replacement Fund made pursuant to the provisions of the first paragraph of Section 2 of this Article VI, together with a description thereof in reasonable detail and a statement that the Expenditures for Additions and Betterments therein described were not theretofore Bonded; (iii) the unexpended balance in the Road Replacement Fund at the close of such preceding calendar year; and (iv) the amount, if any, of such unexpended balance deposited in the Sinking Fund pursuant to the provisions of the second paragraph of Section 2 of this Article VI.

Section 5. The provisions of this Article VI are hereby made expressly subject to each and all of the remedies of the Trustees or the Bondholders as set forth in Article XVI, and the operation of the provisions of this Article VI shall be suspended during the continuance of either of the Events of Default specified in clause (f) or clause (g) of Section 2 of Article XVI.

ARTICLE VII

Equipment Replacement Fund

Section 1. The Company covenants that it will create and maintain a fund to be known as the "Equipment Replacement Fund" and that within 45 days after the close of each calendar month, beginning with the month of November, 1949, and continuing as long as any Bonds are outstanding under the Mortgage, but subject to the provisions of Section 5 of this Article VII, it will pay into the Equipment Replacement Fund in cash:

(a) Such amounts as the Company shall charge to operating expenses for such month for depreciation of Equipment, which shall be not less than the amounts required therefor by the Interstate Commerce Commission or other public regulatory body having jurisdiction or, if no specific amount or rate of depreciation of Equipment is so required, then such reasonable amount therefor as shall be established by the Board of Directors within the maximum amount or rate permitted by such Commission or other public regulatory body;

(b) Such amounts as the Company shall recover as proceeds from salvage recovered during such month from Equipment retired; and

(c) Such other amounts as the Company shall charge to operating expenses during such month on account of write-offs or amortization of investments in Equipment in accordance with the Uniform System of Accounts or by direction or authority of the Interstate Commerce Commission or other public regulatory body having jurisdiction.

Section 2. All cash paid into the Equipment Replacement Fund shall be segregated from the general funds of the Company, shall be held by the Company in a separate bank account or invested in direct or guaranteed obligations of the United States of America, and shall be expended to pay, or to

All advertising and publishing costs, commissions, postage and other expenses incurred in the purchase or redemption of such Bonds, and all interest required to be paid thereon to the date of purchase or redemption, shall be paid by the Company from other available funds and not out of the Sinking Fund.

SECTION 7. The Company covenants that on or before January 30 of each year, beginning with the year 1951, it will deliver to the Trustee a report, signed as in the case of an Officers' Certificate, which shall state separately, with respect to the preceding calendar year, the sums, if any, deposited in the Sinking Fund pursuant to the provisions of Sections 2, 3 and 4 of this Article VIII, the numbers and principal amounts of Outstanding Bonds purchased or redeemed out of such deposits, the amount expended out of each such deposit for the purchase or redemption of such Bonds, and the unexpended balance of each such deposit at the close of such calendar year.

Each such report shall be accompanied by (i) a surrender of all Bonds purchased by the Company out of the Sinking Fund during such calendar year, duly cancelled by the Company, and (ii) in cash the unexpended balances in the Sinking Fund, at the close of such calendar year, of deposits made pursuant to Sections 2, 3 and 4 of this Article VIII.

SECTION 8. The unexpended cash balances deposited with the Trustee pursuant to the provisions of Section 7 of this Article VIII shall be applied respectively by the Trustee, so long as no Event of Default has occurred and is continuing, to the purchase or redemption, in accordance with the provisions of this Section 8, of Outstanding Bonds of such one or more series as the Company would have been required or permitted to purchase or redeem under Sections 2, 3 and 4 of this Article VIII if it had expended such balances for the purposes of said Sections.

The Trustee may purchase such Bonds in the open market at the lowest price or prices at which, in its sole discretion, it shall deem such Bonds reasonably obtainable; or, if the Trustee, in its sole discretion, shall deem it advisable, it may advertise for proposals to sell such Bonds to it, reserving the right to reject any or all such proposals in whole or in part, and may purchase such Bonds at the lowest price or prices asked in such proposals if it deems such purchases advisable; but no such Bonds shall be purchased in the open market or in response to proposals, as aforesaid, at a price exceeding the current redemption price.

Whenever the balance of cash remaining on deposit with the Trustee under the provisions of this Section 8 on March 1 of any year equals or exceeds $50,000, the Trustee shall apply such balance to the redemption of Outstanding Bonds of such one or more series as the Trustee would be entitled to purchase under the foregoing provisions of this Section 8, such redemption to be made on the earliest practicable redemption date, in the case of Bonds of Series A at the redemption price specified in Section 1 of Article IV and in the case of Bonds of any other series at the redemption price specified in the supplemental indenture creating such series. The Trustee shall give notice of such redemption in the name of the Company in the manner and in accordance with the applicable provisions of Article IV; and the Trustee is hereby appointed the agent of the Company for such purpose. The Company covenants that whenever any redemption of Bonds shall be required under the provisions of this Section 8, it will at the request of the Trustee take all action necessary, and authorize the Trustee to take all action necessary, to redeem such Bonds.

The Company covenants that, in connection with any purchase or redemption of Bonds under this Section 8, it will deposit with the Trustee, upon request of the Trustee in the case of purchase, or prior to the date fixed for redemption

in the case of redemption, in addition to funds theretofore deposited with the Trustee pursuant to the provisions of Section 7 of this Article VIII, an additional sum in cash sufficient to pay, in the case of purchase, the excess, if any, of the purchase price, including interest, over the principal amount thereof, and, in the case of redemption, all interest required to be paid thereon to the date fixed for redemption.

All advertising and publishing costs, commission, postage and other expenses incurred in the purchase or redemption of such Bonds by the Trustee shall be paid by the Company, or, if paid by the Trustee, shall be repaid by the Company to the Trustee upon demand.

SECTION 9. Any cash deposited with the Trustee pursuant to the provisions of Section 7 of this Article VIII and applicable to the purchase or redemption of Outstanding Bonds of a particular series may be withdrawn by the Company at any time prior to the application of such cash by the Trustee to the purchase of Outstanding Bonds or the giving of notice by the Trustee of the redemption of any Bonds, as provided in Section 8 of this Article VIII, in an amount equal to the lower of the cost (exclusive of interest) or the principal amount of Bonds of such series, bearing all unmatured coupons appertaining thereto, reacquired by the Company and delivered to the Trustee for that purpose. Any Bonds so delivered to the Trustee shall be accompanied by an Application for the withdrawal of such cash, specifying and describing the Bonds delivered therewith, and by an Officers' Certificate stating that such Bonds have been duly issued and outstanding and have been reacquired by the Company, the cost (exclusive of interest) at which they were reacquired, that none of such Bonds has theretofore been Bonded, and that such Bonds are delivered to the Trustee for the purpose of withdrawing cash then on deposit with the Trustee pursuant to the provisions of Section 7 of this Article VIII.

SECTION 10. In lieu of depositing cash with the Trustee as provided in Section 7 of this Article VIII, the Company may reacquire and deliver to the Trustee, Bonds of any series which the Trustee would be entitled to purchase or redeem with such cash, bearing all unmatured coupons appertaining thereto, at the lower of the cost of reacquisition thereof (exclusive of any interest paid on such reacquisition) or the redemption price thereof (exclusive of interest) in effect on January 15 of the calendar year in which such delivery is made. Any such Bonds so delivered to the Trustee shall be accompanied by an Officers' Certificate stating (i) that such Bonds have been duly issued and outstanding and have been reacquired by the Company, (ii) the cost (exclusive of accrued interest) at which they were reacquired, (iii) that none of such Bonds has theretofore been Bonded, and (iv) that such Bonds are delivered to the Trustee in lieu of the deposit of cash in the Sinking Fund.

SECTION 11. All Bonds purchased or redeemed by the Company or by the Trustee, or delivered by the Company to the Trustee, under any provisions of this Article VIII, shall be cancelled and shall not be made the basis for the authentication and delivery of any Bonds or the withdrawal, payment or application of any cash under any provision of the Mortgage.

ARTICLE IX

General Covenants

The Company covenants as follows:

Section 1. The Company will duly and punctually pay or cause to be paid the principal of, premium if any, and interest on the Bonds at the times and at the place or places and in the manner and to the extent specified therein and in the coupons.

Section 2. The Company will maintain in the Borough of Manhattan, City and State of New York, an office or agency where payment of the principal of, premium if any, and interest on Bonds may be made, where notices, presentations and demands to or upon the Company in respect of Bonds or coupons or in respect of the Mortgage may be given or made and where Bonds may be registered, transferred and exchanged. The Company will also maintain a similar office or agency (except for the registration, transfer and exchange of Bonds) in each other city where the principal of or interest on any of the Bonds is payable, as provided in Article II. The Company will give to the Trustee notice of the location of all such offices or agencies and of any change of location thereof. In case the Company shall fail to maintain any such office or agency or shall fail to give notice of the location or of any change in the location thereof, notices, presentations and demands may be given or made at the principal office of the Trustee.

If the Company shall appoint a paying agent other than the Trustee, it will cause such paying agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section 2:

(a) that it will hold all sums held by it as such agent for the payment of the principal of, premium if any, or

interest on any of the Bonds (whether such sums have been paid to it by or on behalf of the Company) in trust for the benefit of the holders of such Bonds or the coupons for such interest, as the case may be; and

(b) that it will give to the Trustee notice of any failure by the Company to make any payment of the principal of, premium if any, or interest on such Bonds when the same shall be due and payable which shall come to its notice or knowledge as such paying agent.

If the Company shall act as its own paying agent in respect of the Bonds of any series, it will, on or before each due date of the principal of, premium if any, or interest on such Bonds, set aside, segregate and hold in trust for the benefit of the holders of such Bonds or the appurtenant coupons, as the case may be, a sum sufficient to pay such principal, premium and interest so becoming due and will notify the Trustee of any failure to take such action.

The Company may, at any time, for the purpose of obtaining a release or satisfaction of the Mortgage or for any other reason, pay or cause to be paid to the Trustee all sums held in trust by it or by any paying agent pursuant to this Section 2, such sums thereafter to be held by the Trustee upon the same trusts as in this Section 2 provided.

The agreement to hold sums in trust as provided in this Section 2 is subject to the provisions of Section 4 of Article XVIII.

Section 3. The Company will execute and deliver, or will cause to be executed and delivered, all such further deeds, mortgages, assignments and transfers as may be required for the better mortgaging, assigning and confirming to the Trustee of the property hereby mortgaged, conveyed or assigned, or intended so to be, or which the Company may hereafter become bound to convey or assign to the Trustee.

The Company will deliver to the Trustee on or before April 1 in each year, beginning with the year 1950, an Officers' Certificate setting forth in reasonable detail a description of any substantial items of additional real and personal property, estate, rights and franchises acquired within the previous calendar year and an Opinion of Counsel stating either (a) that no supplemental indenture is necessary to subject to the lien of the Mortgage the items of property set forth in such Officers' Certificate which are intended by the granting clauses or other provisions of the Mortgage to be subjected to the lien hereof, or (b) that a supplemental indenture is necessary for the purpose and that the supplemental indenture delivered to the Trustee with such Officers' Certificate and Opinion of Counsel is sufficient for that purpose and has been recorded and filed in the proper jurisdictions.

Section 4. The Company owns and is lawfully possessed of the lines of railroad, property and franchises referred to in the granting clauses hereof, and is duly authorized to operate and does operate said lines of railroad, and covenants and agrees to execute any and all instruments and do any and all acts or things necessary or proper to perfect its title to the same or any thereof, and, subject to the provisions of Article XII hereof, to take all steps and do all acts necessary to continue and maintain its corporate existence and authority to operate its lines of railroad.

Section 5. The Company, from time to time as they shall become due, will make, or cause to be made, all payments required to be made under and by the terms of any Equipment Obligation, including those described in the granting clauses hereof, and will do or cause to be done all such further acts as may be necessary to assure to the Company the use

of the Equipment to which such Equipment Obligation relates and the ultimate acquisition of complete title thereto.

Nothing contained in this Section 5 or in any other provision of the Mortgage, express or implied, is intended or shall be construed to limit the right or power of the Company, which is hereby expressly reserved, to extend, prior to the maturity of any Equipment Obligation, the balance of the rental or other payments remaining to be paid thereunder or secured thereby or to refinance the same by entering into a new Equipment Obligation.

Section 6. The Company will well and truly pay and discharge or cause to be paid and discharged upon presentation thereof for payment when due the principal of all obligations having a lien on the mortgaged property or any part thereof prior to the lien of the Mortgage; and until paid or discharged at maturity or otherwise it will pay or cause to be paid the interest payable thereon at the time and at the place or places set forth therein or in the coupons attached thereto; and it will prevent any default or other thing from happening whereby the right might arise to enforce by foreclosure or otherwise any such obligations; provided, however, that the Company may extend or renew any such obligations.

In all cases in which, pursuant to the requirements of any mortgage or other instrument constituting a lien prior to the lien of the Mortgage, cash, securities, obligations or rights which would otherwise be required to be deposited with the Trustee are deposited with the trustee or mortgagee under such mortgage or other instrument, the Company will forthwith, upon the discharge and cancellation of such mortgage or other instrument (subject to the obligation of the Company, if any, to cause the same to be deposited under any other such mortgage or other instrument), cause to be deposited with the Trustee any and all such cash, securities, obligations or rights remaining at the time of such discharge and cancellation with

the trustee or mortgagee of the mortgage or other instrument so discharged and cancelled. The Company hereby authorizes and directs the trustee or mortgagee under each such mortgage or other instrument, upon such discharge and cancellation thereof, to deposit with the Trustee all such cash, securities, obligations or rights so remaining. The Company covenants to deliver a copy of the Mortgage to the trustee or mortgagee under each such mortgage or other instrument and furnish the Trustee with evidence of such delivery.

SECTION 7. The Company, from time to time, will pay and discharge, or cause to be paid and discharged, all taxes, assessments and governmental charges (the lien whereof would be prior to the lien of the Mortgage) lawfully imposed upon the mortgaged property or upon any part thereof, or upon the income and profits thereof, and also all taxes, assessments and governmental charges lawfully imposed upon the lien or interest of the Trustee in respect of the mortgaged property or the income thereof, so that the lien and priority of the Mortgage shall be fully preserved at the cost of the Company without expense to the Trustee or the Bondholders; provided, however, that the Company shall not be required to pay any such taxes, assessments or governmental charges (i) so long as in good faith the validity or amount thereof shall be contested by appropriate legal proceedings, unless thereby, in the judgment of the Trustee, the security afforded by the Mortgage will be materially impaired or endangered, or (ii) on property it has abandoned pursuant to permission granted by the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, or (iii) on property it has abandoned where no public regulatory body has jurisdiction if the property abandoned is no longer necessary for the maintenance or operation of the lines of railroad subject to the lien of the Mortgage.

SECTION 8. The Company, from time to time as the same shall become due and payable, will observe and perform all of its obligations, and will pay and discharge all sums payable, under or by virtue of any lease or trackage agreement held by it and subject to the lien of the Mortgage and which is reasonably necessary for the maintenance and operation of the lines of railroad subject to the lien of the Mortgage, and will not suffer or permit any default for which such lease or trackage agreement may be terminated, so that, subject to the provisions of Articles XI and XII, the interest of the Company in all such leasehold estates or trackage agreements shall be preserved unimpaired as security for the Bonds and coupons hereby secured.

Nothing in this Section 8 contained shall require the Company to make any such payments or to observe any such obligations so long as the Company in good faith shall contest its liability for any such payments or its duty to observe any such obligations, unless in the opinion of the Trustee such action will materially impair or endanger the interests of the Bondholders.

SECTION 9. Subject to the provisions of Articles XI and XII, the Company covenants and agrees that the Mortgage is and always will be kept a lien upon all of the mortgaged property, subject only to the liens prior thereto specified or referred to in the granting clauses hereof, and the right, charge, lien or title of Equipment Obligations, Permitted Encumbrances and Prior Liens, and that it will not create, or suffer to be created or to arise, or allow to exist any other lien or charge having priority to, preference over or parity with the lien of the Mortgage upon the mortgaged property, or any part thereof, or upon the income thereof; and that, within six months after the same shall be payable, it will pay or cause to be discharged, or will make adequate provision for the satisfaction or discharge of, all lawful claims and demands of

mechanics, laborers and others, which, if unpaid, might by law be given precedence over the Mortgage as a lien or charge upon the mortgaged property or any part thereof, or the income thereof; provided, however, that the Company shall not be required to pay any such debt, lien or charge so long as it shall in good faith, by appropriate legal proceedings, contest the validity or amount thereof unless thereby, in the opinion of the Trustee, the interests of the Bondholders will be materially impaired or endangered.

SECTION 10. Subject to the provisions of Articles XI and XII, and to the extent needful and proper for the efficient and economic operation of its properties, the Company will at all times diligently maintain, preserve and keep all of the rights and franchises granted to it or conferred upon it, maintain, preserve and keep its railroads, fixtures and appurtenances subject to the lien of the Mortgage in good repair, working order and condition and from time to time make all needful and proper repairs thereto and renewals and replacements thereof, and keep the lines of railroad subject to the Mortgage supplied with Equipment, machinery, tools and other supplies, maintain the same in good order and condition, reasonable wear and tear excepted, and from time to time make all needful and proper repairs thereto and renewals and replacements thereof.

SECTION 11. Subject to the terms and provisions of Articles XI and XII, the Company will maintain its property, rights and franchises and continue the full enjoyment thereof so as to maintain the general continuity of its lines of railroad between the principal points served by it as of the date of the execution and delivery of the Mortgage and from time to time thereafter.

SECTION 12. The Company will forthwith upon acquisition deposit and pledge with the Trustee, as further security for

the Bonds, all Securities hereafter acquired by it except Special Securities and except Securities deposited with the trustee or mortgagee of any Prior Lien or required to be so deposited by the terms of such Prior Lien; and upon cancellation or release of any Prior Lien, all such Securities then held by the trustee or mortgagee thereunder will be forthwith deposited and pledged with the Trustee unless then required to be deposited or pledged or held under another lien prior to the lien of the Mortgage.

SECTION 13. The Company will not procure the authentication and delivery of any Bonds hereunder, the release of any property herefrom, or the withdrawal, payment or application of any cash held by the Trustee under any provision of the Mortgage, except upon compliance by the Company with the applicable provisions of the Mortgage.

SECTION 14. The Company will not increase or permit to be increased in principal amount any of its obligations (other than Bonds, Equipment Obligations and Permitted Encumbrances) which are at the time of the making or assuming of such obligations secured by a lien on the mortgaged property, or any part thereof, prior to or on a parity with the lien of the Mortgage unless the obligations representing such increase are forthwith deposited and pledged with the Trustee to be held subject to the provisions of Article X.

SECTION 15. The Company will maintain a record of all Equipment and will furnish to the Trustee at least once in each period of three years following the date of the execution and delivery of the Mortgage an Officers' Certificate stating the number of units by classes of said Equipment, and showing separately the Equipment that is held under or subject to Equipment Obligations, and specifying the amount and maturities of all such Equipment Obligations.

SECTION 16. The Company will cause the Mortgage and every supplemental indenture or instrument purporting to create a lien upon the mortgaged property to secure the Bonds, to be recorded and filed and re-recorded and re-filed to the extent necessary to make effective and maintain the lien intended to be created thereby, and will, on or before April 1 in each year, beginning with the year 1950, furnish to the Trustee an Opinion of Counsel stating either that in the opinion of such counsel the Mortgage and all supplemental indentures or other instruments supplemental thereto have been properly recorded and filed and re-recorded and re-filed, as the case may be, so as to make effective and maintain the lien intended to be created thereby, or that in the opinion of such counsel no such action is necessary to make such lien effective and to maintain the same.

SECTION 17. The Company will cause all of the property at any time subject to the lien of the Mortgage, which is of a character usually insured by railroad companies, to be kept insured in such manner and to such extent as is customary and usual in the operation of railroad companies in the territory served by the Company. On or before April 1, 1950, and on or before April 1 in each year thereafter, and at any other time upon the request of the Trustee, the Company will furnish to the Trustee an Officers' Certificate stating in general the character and extent of the insurance then maintained by the Company and stating that the same complies in all respects with the requirements of this Section 17.

If the proceeds from any insurance on the mortgaged property shall exceed the sum of $25,000 in respect of any one loss, such proceeds shall, subject to the requirements of any Prior Lien, Permitted Encumbrance or Equipment Obligation on such property, be deposited by the Company with the Trustee, accompanied by an Officers' Certificate, dated not more than 30 days prior to the delivery thereof to the Trustee and

stating the circumstances of such deposit and the source of such proceeds, and shall be set apart and held in trust by the Trustee and applied, pursuant to the written request of the Company (if an Event of Default shall not have occurred and be continuing), to the repair, restoration or replacement of the property damaged or destroyed. The written request of the Company, signed as in the case of an Officers' Certificate, shall set forth the nature of such repairs, restorations or replacements and the cost thereof, and shall be accompanied by an Opinion of Counsel that the same are or will become subject to the lien of the Mortgage as hereinafter in this Section 17 provided. Such request and Opinion of Counsel shall constitute a sufficient warrant and direction to the Trustee for the expenditure of said proceeds in accordance with such request.

Any proceeds from insurance deposited with the Trustee, pursuant to this Section 17, which have not been applied to the repair, restoration or replacement of the property damaged or destroyed within two years after such payment, shall thereafter be held and disposed of by the Trustee as in the case of moneys deposited upon the release of mortgaged property as provided in Section 7 of Article XI.

If the proceeds from any insurance on the mortgaged property shall be $25,000 or less in respect of any one loss, such proceeds shall be applied by the Company to the repair, restoration or replacement of the property damaged or destroyed or to the acquisition or construction of Additions and Betterments. Any property acquired by the Company out of the proceeds of insurance as aforesaid and any and all repairs, restorations, replacements, Additions and Betterments acquired or constructed out of such proceeds, subject to the requirements of any Prior Lien, Permitted Encumbrance or Equipment Obligation on the property with respect to which such insurance was collected, shall become and be subject to the Mortgage as fully as though specifically mort-

gaged or assigned hereby, but, in the case of property repaired or restored, only in the same manner and to the same extent as the property damaged or destroyed with respect to which such insurance was collected.

SECTION 18. The Company will permit the Trustee, through its agents, to inspect the mortgaged property or any portion thereof at any time and from time to time, and will comply with all reasonable requests of the Trustee to furnish such information as the Company may have with respect to the mortgaged property.

SECTION 19. The Company will not pledge or hypothecate any Bonds to secure any indebtedness created, assumed or guaranteed, directly or indirectly, by the Company if in consequence thereof the principal amount of all Bonds pledged or hypothecated by the Company would exceed 10% of the aggregate principal amount of all Outstanding Bonds.

The Company will not pledge or hypothecate any Bonds to secure any indebtedness if in consequence thereof the principal amount of such Bonds would exceed 150% of the principal amount of such indebtedness.

SECTION 20. The Company will deliver to the Trustee at the time of the distribution thereof a copy of each annual report and financial statement distributed by the Company to its shareholders, beginning with the annual report for the year 1949.

SECTION 21. The Company will not pay any dividend on the shares of any class of its capital stock unless at the time interest at the rate of 4% per annum on the Bonds of Series A has been paid, or funds sufficient for the payment thereof deposited in trust for such purpose, for the two calendar years next preceding that in which the dividend is declared.

For the purposes of this Section 21, interest at the rate of 4% per annum shall be deemed to have been paid on the Bonds of Series A for the calendar years 1947 and 1948, prior to the execution and delivery of the Mortgage.

SECTION 22. So long as interest on the Bonds of Series A remains Contingent Interest, the Company will, on or before April 15 of each year, beginning with the year 1950, mail to the Trustee and to all registered holders of Bonds of Series A at their last addresses as they shall appear upon the bond registry books, a notice stating the amount of interest payable on the Bonds of Series A or that no interest is payable on the Bonds of Series A on the next succeeding interest payment date.

SECTION 23. The Company will not procure the authentication and delivery of any Bonds under Article III in any case in which the delivery to the Trustee of an Interest Coverage Certificate is required, unless the consolidated income available for fixed charges of the Company and its Railroad Subsidiaries, for a period of 12 consecutive calendar months within the 18 calendar months next preceding the date of the Application for the authentication and delivery of such Bonds, shall have been at least one and one-half times the aggregate of (i) the annual interest charges on all Outstanding Bonds (computed at the rates specified therein, without regard to Available Net Income), and (ii) the annual interest charges (computed in the same manner) on the Bonds to be authenticated and delivered on the basis of such Application, and (iii) all other fixed charges of the Company and its Railroad Subsidiaries in such period. The consolidated income available for fixed charges and all fixed charges of the Company and its Railroad Subsidiaries for such period shall be determined in accordance with the Uniform System of Accounts applicable to such period.

SECTION 24. The Company covenants that all funds made available to it after October 1, 1949, from all or any of the following sources, unless deposited in the Road Replacement Fund or in the Equipment Replacement Fund or with the Trustee or with the trustee or mortgagee under a Prior Lien, Equipment Obligation or Permitted Encumbrance, shall be applied only to Expenditures for Additions and Betterments not theretofore Bonded: (i) proceeds of insurance on the mortgaged property not used for restoration or repairs, and (ii) proceeds from sales of mortgaged property sold in accordance with the provisions of Article XI.

SECTION 25. If any Expenditures for Additions and Betterments located on any leasehold shall have been Bonded, upon the termination of such leasehold there shall be deposited with the Trustee, accompanied by an Officers' Certificate dated not more than 30 days prior to the delivery thereof to the Trustee and stating the circumstances of such deposit and the source thereof, all amounts paid to the Company pursuant to the terms of such lease in reimbursement therefor. All amounts so received by the Trustee shall be held and disposed of as in the case of moneys deposited upon the release of mortgaged property as provided in Section 7 of Article XI.

SECTION 26. If the Company shall procure the authentication and delivery of any Bonds for the purpose of acquiring Railroad Subsidiary Bonds of a Railroad Subsidiary, pursuant to the provisions of Section 7 of Article III, it will not thereafter cause or permit the issuance of any additional principal amount of such Railroad Subsidiary Bonds unless such additional Railroad Subsidiary Bonds are upon issuance deposited and pledged with the Trustee.

ARTICLE X

PLEDGED SECURITIES

SECTION 1. Securities deposited and pledged under the Mortgage, if not already in bearer form, or issued in the name of the Trustee, shall be duly endorsed in blank for transfer or accompanied by appropriate instruments of assignment and transfer in blank. Any Securities deposited and pledged under the Mortgage may if the Trustee so determines, and shall if the Company so requests, be registered in the name of the Trustee or its nominee or be stamped by the Trustee with an appropriate legend to the effect that the same are held in trust for the purposes declared in the Mortgage. The Trustee shall not be obligated to examine or pass upon the validity or genuineness of any Securities and their accompanying assignments tendered for deposit and pledge with it, including any mentioned and described in the granting clauses hereof, and the Trustee shall be entitled to rely upon Opinions of Counsel that any Securities so deposited and pledged are genuine and valid and what they purport to be and that any endorsements or assignments thereof are effective, genuine and valid.

All Debt Securities deposited and pledged under the Mortgage may be in temporary or definitive form, and shall be accompanied by all appropriate coupons appertaining thereto, if any, and, if susceptible of registration as to principal or interest, may if the Trustee so determines, and shall if the Company so requests, be registered, or exchanged for Debt Securities issued, in the name of the Trustee or its nominee.

SECTION 2. Unless and until an Event of Default shall have occurred and be continuing, and except as in the Mortgage otherwise expressly provided:

(a) The Company shall be entitled to collect and retain for its own use all earned cash dividends which may be declared on any Stock deposited and pledged here-

under and all sums which may become due and payable for interest upon Debt Securities so deposited and pledged; and the Trustee, upon the written request of the Company, shall deliver to the Company necessary and suitable assignments and orders for the payment to it or upon its order of all such earned cash dividends and shall deliver to it all coupons pertaining to any such Debt Securities, or suitable assignments and orders for the payment to it or upon its order of all such interest, as and when such coupons or interest shall become due and payable or at any time within 30 days prior thereto; the Trustee, upon the written request of the Company, shall pay over to the Company all sums which may be received by the Trustee representing interest and earned cash dividends; and the Trustee, upon written notice from the Company that any installment of interest has been paid on any Debt Security payable to bearer but without interest coupons, shall note or permit to be noted thereon the fact of such payment; and

(b) The Trustee (except with consent of the Company or as otherwise expressly authorized by the Mortgage) shall not be entitled to enforce payment of the interest on any Debt Security deposited and pledged hereunder, or to enforce any provision of or exercise any right under any mortgage or other instrument pursuant to which such Debt Security was issued or by which the same is secured;

provided, however, and it is hereby declared and agreed that, except as in the Mortgage otherwise expressly provided:

(1) The Company shall not be entitled to collect and the Trustee shall not pay over to the Company, and if collected by the Company it shall forthwith pay over to the Trustee, with respect to any Securities deposited and pledged or required to be deposited and pledged hereunder, (i) the principal, in whole or in part, of any Debt Security; (ii) any interest on any Debt Security which shall have been paid out of the proceeds of any sale or condemnation of, or the proceeds of insurance on, the property covered by a mortgage or other lien securing such Debt Security, or out of the proceeds of sale of any

property of the corporation liable upon such Debt Security in case of the dissolution, liquidation or winding up of such corporation, or out of any other proceeds of capital assets, it being the intent of the Mortgage that the Company shall be entitled to receive only interest paid out of revenues, rents, earnings, profits, or income; (iii) any amounts paid on redemption of any Security, other than on account of accrued interest or dividends payable to the Company under the provisions of the Mortgage; (iv) any liquidation dividends consequent upon the dissolution, or total or partial liquidation or winding up, or reduction of Stock, of any corporation; and (v) any other dividends, whether payable in Stock, cash or property, except only earned cash dividends;

(2) The Company shall not collect any such dividends, coupons or interest by legal proceedings or by the enforcement of any security therefor, except upon at least 30 days' prior written notice to the Trustee;

(3) Until actually paid, cancelled or discharged, each coupon or right to interest or dividends shall remain subject to the lien of the Mortgage, and the Company shall not sell, assign or transfer any such coupon or right to interest or dividends;

(4) The Company may release and discharge, in whole or in part, any and all claims for interest on any Railroad Subsidiary Bonds deposited and pledged hereunder, when and as such interest becomes due; and

(5) The Trustee shall be entitled to assume that all such interest has been or will be paid out of revenues, rents, earnings, profits, or income and that all dividends paid in cash are or will be earned cash dividends, unless and until the Trustee is notified in writing to the contrary by the payor, its agent, the Company or one or more Bondholders.

SECTION 3. Unless and until an Event of Default shall have occurred and be continuing, the Company shall have the right to vote and give consents in respect of all Securities deposited and pledged hereunder for all purposes not contrary to

the provisions of the Mortgage or inconsistent therewith, and to consent to, ratify or waive notice of any and all meetings, with the same force and effect as though such Securities were not subject to the lien hereof; and the Trustee, in respect of Securities issued in its name or in the name of its nominee or nominees, shall upon the written request of the Company give suitable waivers of notice and consents and deliver to the Company, or to its nominee or nominees, suitable powers of attorney or proxies with or without power of substitution and either generally or for such one or more objects as such proxy shall specify. The Company covenants that it will not vote or permit to be voted or give or permit to be given any consent in respect of any such Securities for any purpose contrary to the provisions of the Mortgage or inconsistent therewith.

The Trustee, with the written consent of the Company delivered to the Trustee, accompanied by a Certified Resolution authorizing the same, and without such consent if an Event of Default shall have occurred and be continuing,

(a) may vote or give consents in respect of any Securities deposited and pledged hereunder and authorize such Securities to be voted and such consents to be given and may take such other action as to the Trustee, in its discretion, shall seem advisable to protect the interest of the Trustee and of the Bondholders in respect of any Securities subject to the lien hereof; and

(b) may in respect of any such Securities join in or become party to any plan of reorganization or readjustment (whether voluntary or involuntary) of the corporation issuing such Securities and deposit such Securities under such plan, and may make any exchange, substitution, cancellation or surrender of Securities required by any such plan and take such action with respect to Securities subject to the lien hereof as may be required by such plan for the accomplishment thereof. All new Securities issued and cash paid under any such plan in exchange for Securities previously deposited and pledged hereunder shall be deposited with the Trustee and held

by it under and for the purposes expressed in the Mortgage.

SECTION 4. In case at any time

(a) default shall be made in the payment of the principal of or interest on any Debt Security deposited and pledged hereunder, or

(b) default shall be made in any of the covenants, terms or conditions contained in any such Debt Security or the mortgage or other instrument securing the same or pursuant to which the same shall have been issued, or

(c) the right shall arise to enforce, by foreclosure or otherwise, any such mortgage or other instrument,

then, and in any such case, upon the written request of the Company delivered to the Trustee, accompanied by a Certified Resolution authorizing the same, and without such request if an Event of Default shall have occurred and be continuing, the Trustee, as the holder of such Debt Security, may in its discretion exercise all rights of the holder thereof and all rights under the mortgage or other instrument securing the same, or pursuant to which it was issued, and cause such proceedings as may be approved by counsel to be instituted and prosecuted in a court of competent jurisdiction to enforce the payment of the principal and interest on such Debt Security and the performance of the covenants, terms or conditions therein and in such mortgage or other instrument contained and the foreclosure or other enforcement of such mortgage or other instrument, or otherwise.

SECTION 5. Unless an Event of Default shall have occurred and be continuing, the following transactions may be carried out and consummated:

(a) The renewal or extension of any Debt Security deposited and pledged hereunder at the same or a lower or higher rate of interest;

(b) The renewal or extension of any mortgage or other lien or instrument securing any Debt Securities deposited and pledged hereunder; and

(c) The issue in substitution for any Securities of a Railroad Subsidiary deposited and pledged hereunder of other Securities issued by the same Railroad Subsidiary which, except in the case of common Stock, shall be of the same or a greater aggregate principal amount or liquidation value, shall be secured by the same or an equivalent or prior lien or entitle the holder to an equivalent or superior liquidation and dividend preference, and shall bear the same or a higher or lower rate of interest or preferred dividend;

subject, however, to the following terms and conditions:

(1) All Securities so renewed or extended (if replaced by new Securities) and all Securities for which new Securities are substituted shall be delivered by the Trustee to the corporation issuing the same solely for retirement.

(2) All Securities so issued in renewal, extension or substitution shall forthwith upon the issue thereof be deposited and pledged hereunder to the same extent and in the same manner as the Securities renewed or extended or for which they are substituted.

(3) No such substitution shall be made unless the substituted Securities shall include all outstanding shares of capital Stock having general voting rights of such Railroad Subsidiary.

(4) No such substitution shall be made if the substituted Securities are of an issue junior to the Securities to be retired.

(5) In each such case the Trustee shall be furnished with the following:

(A) An Officers' Certificate stating in substance as follows: (i) the Securities (briefly described) to be

renewed, extended or retired and the terms of such renewal, extension or retirement; (ii) the Securities (briefly described), if any, to be issued in substitution; (iii) that the renewal, extension or substitution will be to the benefit and advantage of the Company and will not be detrimental to the interest or security of the Bondholders; (iv) whether the Securities to be renewed or extended or for which new Securities are to be substituted are Securities of a Railroad Subsidiary; (v) that if such new Securities are to be substituted for Securities of a Railroad Subsidiary such substituted Securities will include all outstanding shares of capital Stock having general voting rights of such Railroad Subsidiary; (vi) that the Securities, if any, to be issued in substitution will not be junior to the Securities to be retired; and (vii) that no Event of Default has occurred and is continuing; and

(B) An Opinion of Counsel that such renewal, extension or substitution is in accordance with the provisions of the Mortgage and that any Securities so to be renewed or extended will, upon such renewal or extension, and any new Securities to be issued will, upon the issue and delivery thereof to the Company, be validly issued and outstanding and what they purport to be and validly owned by the Company; that whatever consent, authorization or approval on the part of any governmental authority is requisite for such ownership and pledge has been obtained; that all shares of Stock, if any, included in such Securities are fully paid and nonassessable; and that upon the deposit and pledge of said Securities hereunder the Mortgage will constitute a valid, enforceable and direct lien thereon, free and clear of liens prior thereto.

Upon receipt of the instruments specified in clauses (A) and (B), and a Certified Resolution requesting any such extension, renewal or substitution, the Trustee shall permit the same and take any other action necessary to effect any such extension, renewal or substitution.

SECTION 6. The Trustee may sell, assign, transfer and deliver so many shares of the Stock of any corporation whose

Stock is deposited and pledged under the Mortgage as may be necessary to qualify persons to act as directors of, or in any other official relation to, such corporation. In every such case the Company shall make such arrangements with the Trustee as shall be deemed necessary by the Trustee for the protection of the trusts hereunder.

SECTION 7. In case a corporation any of the Securities of which shall be deposited and pledged under the Mortgage shall be consolidated with or merged into, or shall convey all or substantially all of its properties to, the Company, the Securities of such corporation that are deposited and pledged under the Mortgage shall be surrendered to the consolidated corporation or to the Company, as the case may be, but only if, as evidenced by an Opinion of Counsel furnished to the Trustee, (i) by virtue of such consolidation or merger and the application of the provisions of Article XII the lien of the Mortgage has extended to the property of such corporation the Securities of which are so surrendered, and (ii) in the case of any Debt Securities so surrendered which are secured by a lien on the property of such corporation, the lien of the Mortgage resulting from such consolidation or merger is substantially equivalent to the lien securing such Debt Securities. The Company covenants that it will not use any property acquired from any corporation (if its Securities were theretofore Bonded) as a basis for the authentication and delivery of any Bonds, the release of any property, or the withdrawal, payment or application of any cash held by the Trustee, under any provision of the Mortgage.

SECTION 8. In case at any time

(a) any corporation, the Securities of which shall be deposited and pledged hereunder, shall be dissolved or liquidated, or

(b) all or any of the property of any such corporation shall be sold at any judicial sale, or

(c) any of the property covered by any mortgage securing any Debt Security deposited and pledged under

the Mortgage shall be sold in foreclosure proceedings or other proceedings for the enforcement of such mortgage or the Debt Security thereby secured,

then, and in any such case, if the property of such dissolved or liquidating corporation or the property sold can be acquired by crediting on the Securities so pledged under the Mortgage any sum accruing or to be received thereon out of the proceeds of such property, and by paying not more than 10% of the price of such property in cash (or more than 10% if the Company or the holders of 25% in principal amount of the Outstanding Bonds shall so request), the Trustee in its discretion may, and if requested in writing by the Company or the holders of 25% in principal amount of the Outstanding Bonds and upon being provided with the amount of cash necessary therefor (whether such amount be more or less than 10% of the price of such property) and security or indemnity satisfactory to it against any expense or liability on its part, shall, purchase or cause to be purchased such property, either in the name or on behalf of the Trustee or of the Company or of purchasing trustees, as the Trustee may determine, and the Trustee shall use, or permit the Company to use, such securities so far as may be permissible to make payment for such property. In the event of any such purchase, the Trustee shall take such steps as it may deem proper to cause such property to be vested either in the Company and subjected to the direct lien of the Mortgage (in which event, if such securities were theretofore Bonded, the Company covenants not to use any such property as a basis for the authentication and delivery of any Bonds, or the release of any property, or the withdrawal, payment or application of any cash held by the Trustee, under any provision of the Mortgage), or in some other corporation organized or to be organized with power to acquire and operate such property, in which event all securities of such other corporation acquired directly or indirectly through such use of the pledged securities shall be deposited and pledged hereunder in the place and stead of the latter, and shall be held by the Trustee as part of the mortgaged property.

SECTION 9. The Company covenants that, except as permitted by clause (b) of Section 3 of this Article X, no Railroad Subsidiary will increase the amount of its outstanding shares of Stock of any class unless after such increase all shares outstanding necessary to meet the requirements of a Railroad Subsidiary shall be pledged and deposited with the Trustee hereunder. In the event that the outstanding amount of any class of Stock of any Railroad Subsidiary shall be reduced, the Trustee, upon the written request of the Company, shall surrender for cancellation the certificates evidencing such part of the shares of such class of Stock so pledged hereunder as shall be proportionate to the amount of such reduction, provided that the remaining shares deposited and pledged with the Trustee are sufficient to meet the requirements of a Railroad Subsidiary.

SECTION 10. The Company covenants and agrees that no Railroad Subsidiary will create or increase the amount of its debts secured by lien equal or prior in rank to the lien of any bonds of such Railroad Subsidiary pledged under the Mortgage, unless the Debt Securities for the debt so created or the increase thereof are also pledged with the Trustee.

SECTION 11. The Company covenants that no Railroad Subsidiary will make any sale, exchange or other disposition of its property contrary to the provisions of Part B of Section 1 of Article XI and that, except as otherwise expressly provided in the Mortgage, no Railroad Subsidiary will at any time sell, exchange or otherwise dispose of its property, real or personal, or any part thereof, except for adequate consideration and unless the Company shall first file with the Trustee the following:

(a) An Officers' Certificate dated not more than 30 days prior to the delivery thereof, stating

(1) that such Railroad Subsidiary desires to sell or exchange property, briefly described, or has contracted so to do, for a consideration described in the

Certificate (which consideration may be cash or property or both), and that such consideration represents, in the opinion of the signers of the Certificate, an adequate consideration to such Railroad Subsidiary for the property to be sold or exchanged;

(2) a brief description of the property, if any, to be received as consideration in whole or in part, and stating that such property consists of railroad lines, bridges or terminals, or other property appurtenant to or useful to the railroad lines, bridges or terminals, owned and operated by such Railroad Subsidiary; and

(3) that the property to be sold or exchanged is no longer necessary or advantageous in the business of such Railroad Subsidiary, and either (i) that the substantial integrity and efficiency of the lines of railroad, bridges and terminals of such Railroad Subsidiary will not be impaired by such sale or exchange, or (ii) that the sale or exchange is made in compliance with the provisions of Part B of Section 1 of Article XI; and

(b) An Opinion of Counsel (in case such Officers' Certificate states that the consideration to the Railroad Subsidiary consists of property in whole or in part) that such property to be received by the Railroad Subsidiary is free and clear of liens other than Permitted Encumbrances.

Sales, exchanges and other dispositions of its property may be made by any Railroad Subsidiary in any calendar year without the filing of the instruments provided for in this Section 11, unless and until the value of the property disposed of by such Railroad Subsidiary in that year has exceeded or will exceed $25,000.

The Company covenants and agrees that within 15 days after the sale or disposition of any property by a Railroad Subsidiary as to which the instruments provided by this Section 11 shall be required, the Company will deposit or cause to be deposited with the Trustee an amount equal to the

amount of any cash received by such Railroad Subsidiary for the property so sold, unless such Railroad Subsidiary has deposited such amount with the trustee or mortgagee of a mortgage securing Railroad Subsidiary Bonds of such Railroad Subsidiary in accordance with the requirements of such mortgage, as to which such deposit the Trustee shall be furnished with a statement of the trustee or mortgagee of such mortgage certifying thereto.

SECTION 12. The Company may, unless an Event of Default shall have occurred and be continuing, sell the Securities of any corporation which are deposited and pledged under the Mortgage, except Prior Lien Bonds, but only upon and subject to the following conditions:

(a) Stocks of a Railroad Subsidiary having general voting rights and pledged hereunder shall be sold simultaneously.

(b) The Trustee shall be furnished with an Officers' Certificate dated not more than 30 days prior to the delivery thereof and setting forth:

(1) A description of the Securities to be disposed of by the Company, and, in the case of Stocks of a Railroad Subsidiary, a statement that such Stocks include all Stocks of such Railroad Subsidiary having general voting rights;

(2) A brief statement of the price or consideration to be received by the Company (which consideration may be cash, or cash and purchase money obligations secured by a pledge of the Securities to be sold) and a statement that the amount of such consideration is not less than the fair value to the Company of the Securities to be sold and represents an adequate consideration therefor; that none of such purchase money obligations matures more than 5 years from the date of issue; and that the aggregate principal amount thereof does not exceed 60% of the total amount of such consideration;

(3) If the Securities to be disposed of are Securities of a Railroad Subsidiary, a statement that such

sale is subject to the provisions of Part B of Section 1 of Article XI, accompanied by showings in compliance therewith, or a statement that the provisons of said Part B are not applicable to such sale; and

(4) That no Event of Default has occurred and is continuing.

(c) The consideration stated in the Officers' Certificate provided for in subsection (b) of this Section 12 to be received by the Company shall be deposited and pledged with the Trustee.

(d) The Trustee shall be furnished with an Opinion of Counsel stating that (i) such sale is in accordance with the provisions of the Mortgage, (ii) the Trustee is authorized under the terms of the Mortgage to comply with the request of the Company in consummation of the sale, (iii) any purchase money obligations mentioned in the Officers' Certificate provided for in subsection (b) of this Section 12 are valid obligations, secured by a valid and enforceable pledge of the Securities to be sold, free and clear of prior liens, (iv) such pledge contains appropriate provision for the security and protection of the Bonds, and (v) all necessary consent or approval of all governmental authorities for the sale and acquisition of such Securities has been obtained or that no such consent or approval is necessary; and said opinion shall be accompanied by a certified copy of any such consent or approval specified in said opinion to be necessary.

(e) The Trustee shall be furnished with a Certified Resolution authorizing the sale of the Securities mentioned in the Officers' Certificate provided for in subsection (b) of this Section 12, and requesting the release thereof from the lien of the Mortgage.

Upon receipt by the Trustee of the instruments mentioned in subsections (b), (d) and (e) of this Section 12, and the consideration to be received by the Company as therein stated, the Trustee shall release from the lien of the Mortgage, and deliver to or upon the written order of the Company, all Securities so to be sold at the time held by the Trustee.

SECTION 13. In case an Event of Default shall have occurred and be continuing, the Company shall no longer be entitled to receive the payments and exercise the rights theretofore permitted it pursuant to the provisions of this Article X, but nevertheless may do any of the things authorized to be done by it in Sections 2, 3, 5, 7, 8 and 12 of this Article X upon compliance by it with the respective provisions of said sections, if the Trustee, in the exercise of its discretion, in writing expressly authorizes or assents to such action. The Trustee shall so authorize or assent to such action if requested by the holders of a majority in principal amount of the Outstanding Bonds.

SECTION 14. All moneys received by the Trustee in respect of any Securities deposited and pledged hereunder, unless the Company shall be entitled to receive the same under the provisions of Section 2 of this Article X, shall be held, paid out or applied by it as in the case of money deposited upon the release of mortgaged property, in the manner provided in Section 7 of Article XI.

SECTION 15. The Company covenants and agrees that forthwith on demand of the Trustee it will pay, or will provide for in a manner satisfactory to the Trustee, all expenditures incurred by the Trustee under any of the provisions of this Article X, including all sums required to obtain and perfect the ownership and title to any property which the Trustee shall cause or authorize to be purchased pursuant to any provision of this Article X; and the Trustee in its discretion, without impairment of or prejudice to any of its rights under the Mortgage by reason of any default of the Company, may but shall not be obligated to advance any or all such expenses and such other moneys as may be required, or may procure such advances to be made by others, and for such advances made by the Trustee or by others at its request, with interest thereon at the rate of 4% per annum, the Trustee shall have a lien upon the mortgaged property in priority to the lien of the Bonds, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

ARTICLE XI

POSSESSION, USE AND RELEASE OF PROPERTY

SECTION 1. While the Company shall remain in possession of the mortgaged property, it shall be entitled to manage, operate, use and enjoy all and singular the property subject to the Mortgage (except any cash or Securities deposited or pledged or required to be deposited or pledged with the Trustee under the terms of the Mortgage) and to receive, take and use the rents, incomes and profits thereof subject to the terms of the Mortgage. The subsequent provisions of this Section 1 are for the purpose of permitting the advantageous use of the property subject to the Mortgage in the operation and management of the business so as most judiciously to maintain the value of such property of the Company and the value of the security for the Bonds.

PART A. While remaining in possession of the mortgaged property, the Company shall be entitled in the usual and ordinary conduct of its business:

(a) to alter, repair, dismantle when no longer useful, replace, change and add to its buildings, roadways, trackage, Equipment, materials, supplies and any other physical property;

(b) to make any change in the location of its lines, tracks, station houses, buildings or other structures situated upon or comprising any part of the property subject to the Mortgage to other premises, if said lines, tracks, station houses, buildings, structures and the premises whereon they are relocated shall be or concurrently become subject to the lien of the Mortgage to the same extent and with the same priority of lien as before such relocation; and

(c) to modify the rights under, or to abandon or terminate, any trackage, terminal, operating or other contract, agreement or lease, easement, franchise, license, authority or permit under which the Company may now

or hereafter conduct its railroad operations; provided, in the case of any modification, that the same does not substantially impair the rights of the Company in its railroad operations or in the judgment of the Company impair the security or interests of the Bondholders, and in the case of any abandonment or termination, that such rights are no longer required for the railroad operations of the Company, and that rights of operation, substantially equivalent as to scope and term, are otherwise owned or are concurrently to be acquired and subjected to the lien of the Mortgage to the same extent and with the same priority of lien as existed prior to the modification, abandonment or termination.

PART B. To increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within its own transportation system which is subject to the lien of the Mortgage, and by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads the Company, while remaining in possession of the mortgaged property, may, under the conditions and upon compliance with the provisions of Sections 2 and 3 of this Article XI to the extent applicable:

(a) Sell, exchange for other property, abandon, lease or otherwise dispose of any part, substantially less than all, of its lines of railroad (including any leasehold, easement, trackage right or other interest therein) which are subject to the lien of the Mortgage, but only if, at or prior to such sale, exchange, abandonment, lease or other disposition,

(1) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgement of the Board of Directors that

(i) such sale, exchange, abandonment, lease or other disposition will increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within the Company's own transportation system then subject to the lien of the Mortgage, or by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, and will not substantially impair the ability of the Company to handle the traffic of its transportation system, and

(ii) that the property so to be sold, exchanged, abandoned, leased or otherwise disposed of is no longer deemed necessary or expedient in the operation of its transportation system and that the security or interests of the Bondholders will not be impaired thereby; and

(2) there shall also be filed with the Trustee, as to any part of such lines of railroad (including any leasehold, trackage right or other interest therein) desired to be sold, exchanged, abandoned, leased or otherwise disposed of, an Officers' Certificate stating that the Company is in possession of the mortgaged property and the facts relied upon to show that

(i) such part of said lines of railroad is a branch or spur line, or is otherwise so separable from any main line serving principal points, that such sale, exchange, abandonment, lease or other disposition will not break the continuity of such main line between the principal points served thereby, or

(ii) after said sale, exchange, abandonment, lease or other disposition there will remain at least one other route subject to the lien of the Mortgage between the principal points served by the part of such line to be sold, exchanged, abandoned, leased or otherwise disposed of, over which the traffic of its transportation system between such principal points may be handled with substantially equal facility, or

(iii) the Company has acquired, or upon such sale, exchange, abandonment, lease or other disposition will acquire, rights over lines of another railroad company through joint ownership, lease or trackage agreement whereby facilities will be available for general continuity of operation of its transportation system which are substantially equivalent to the facilities therefor of the lines of railroad to be sold, exchanged, abandoned, leased or otherwise disposed of, and that any such lease or trackage agreement, as evidenced by an Opinion of Counsel furnished to the Trustee, will extend at least beyond the latest date of maturity of any of the Bonds then outstanding and will not be subject to termination prior to its expiration date on account of any lien on the property covered thereby; and

(3) there shall be pledged with the Trustee or otherwise subjected to the lien of the Mortgage, subject only to Permitted Encumbrances, in such manner as shall be deemed sufficient in an Opinion of Counsel furnished to the Trustee, any and all rights of joint ownership, leases, and trackage agreements acquired by the Company and referred to in such Officers' Certificate pursuant to the preceding clause (2) (iii).

Any lease of property of the Company made pursuant to this subdivision (a) shall be made expressly subject to immediate termination by the Trustee at any time upon the occurrence of an Event of Default and at any time during the continuance thereof, and also by the purchaser of the property so leased upon any sale thereof, whether such sale be made under the power of sale hereby conferred or under judicial proceedings.

Notwithstanding the foregoing provisions of this Part B, any line or portion of a line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage may be sold, exchanged, abandoned, leased or otherwise disposed

of upon compliance solely with the provisions of clause (1) of this subdivision (a), if such sale, exchange, abandonment, lease or other disposition is with the approval or direction of the holders of a majority of all Outstanding Bonds, such approval or direction being made and evidenced pursuant to the provisions of Article XIII and filed with the Trustee.

(b) Grant an undivided interest in any part of any line of railroad, or in any bridge or terminal, which is subject to the lien of the Mortgage, or grant an easement over, or enter into a trackage agreement providing for the use by another railroad of, any such line of railroad, or bridge or terminal, with or without use of appurtenant shop or other operating and service facilities; and any such easement or trackage right may, but need not, extend for a longer period than the latest maturity of any of the Bonds then outstanding, and may, but need not, be subject to termination by the Trustee upon the occurrence or during the continuance of any Event of Default, or by the purchaser of any property to which the same relates upon any sale thereof by virtue of the power of sale hereby conferred or under judicial proceedings; but in the case of each such grant of an undivided interest or in case any such easement or trackage right shall extend for a longer period, as aforesaid, or is not subject to termination, as aforesaid, then at or prior thereto

(1) there shall be furnished to the Trustee an Opinion of Counsel that there has been adequately preserved to the Company the equal or prior right to the use of any such line of railroad, bridge, or terminal in which an undivided interest has been granted or as to which an easement or trackage right has been so granted, and to appurtenant facilities, if any, as to which a right of use has been so granted, and

(2) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgment of the Board of Directors, in the case of any such

grant of an undivided interest, that the same is advantageous to the economical and efficient operation of the business of the Company, or, in the case of any such easement or trackage right agreement, that the terms thereof are reasonable and advantageous to the economical and efficient operation of the business of the Company and, in either case, that such transaction will not substantially impair the ability of the Company to handle the traffic of its transportation system subject only to the liens of the Mortgage and Permitted Encumbrances at or between the principal points served thereby nor impair the security or interests of the Bondholders.

In case an easement over, or a trackage agreement providing for the use by another railroad of, any part of any line of railroad or in any bridge or terminal shall be granted by the Company for a longer period than the latest maturity of any of the Bonds then outstanding or not be subject to termination by the Trustee upon the occurrence or during the continuance of any Event of Default or by the purchaser of any property to which the same relates upon any sale thereof by virtue of the power hereby conferred or under judicial proceedings, the Trustee shall, at the request of the Company and upon receiving the Opinion of Counsel and Certified Resolution with respect thereto as provided in this subdivision (b), execute and deliver a certificate or consent to the granting of such easement or trackage agreement.

Any principal point which is the terminus of any line of railroad of the Company subject to the lien of the Mortgage shall cease to be a principal point if, for any period of five successive years after the date of the Mortgage, traffic over the line, or a portion thereof serving such point designated as provided in the following sentence, has been such that the operation by the Company of such line or such designated portion, as the case may be, has been without profit during the whole of such period. Upon filing with the Trustee an Officers' Certificate designating any such principal point and the line serving such point, or a specified portion thereof, and

showing facts with respect to traffic and operation of such line or such specified portion thereof, as the case may be, fulfilling to the satisfaction of the Trustee the requirements of this paragraph, together with a Certified Resolution expressing the judgment of the Board of Directors that the principal point described in said Certificate is in fact no longer a principal point in the operation of such lines of railroad, then said principal point shall no longer be deemed or treated as a principal point on such line for any purpose under the provisions of this Part B.

The provisions and limitations of this Part B shall govern any sale by the Company, pursuant to the provisions of Article X, of the securities of any Railroad Subsidiary owning a connecting line of railroad or bridge which forms a part of the transportation system of the Company.

PART C. In case any line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage is desired to be abandoned, prior to any such abandonment there shall be furnished to the Trustee, in addition to all other requirements of this Section 1, an Opinion of Counsel stating that any requisite approval of the Interstate Commerce Commission or other governmental authority having jurisdiction in the premises has been obtained for such abandonment and said Opinion of Counsel shall be accompanied by a certified copy of the order, if any, expressed to be so required.

SECTION 2. Except as hereinafter specifically provided in this Section 2, the Company while remaining in possession of the mortgaged property may, without obtaining a release from, action by or giving notice to the Trustee and without other action or proceeding on the part of the Company hereunder:

(a) In the ordinary conduct of its business, sell, exchange or otherwise dispose of, free from the lien of the Mortgage, any office equipment, machinery, tools, furni-

ture, materials and supplies and other chattels (except Equipment) which may have become obsolete, worn out, unserviceable or no longer required in the conduct of its business; provided the Company shall, within a reasonable time, replace the same with other property which shall become subject to the lien of the Mortgage and be of a value to the Company at least equal to the value of the property so disposed of;

(b) In the ordinary course of its business, sell, exchange or otherwise dispose of, free from the lien of the Mortgage, any Equipment which is no longer useful, any buildings, bridges, structures, industrial tracks, side tracks or yard tracks which it has been desirable in the conduct of its business to retire from use and not replace and any land constituting abandoned right of way or station grounds, or industrial sites or other land (with or without improvements thereon) which is no longer useful to the Company, if the consideration received on any such sale or other disposition does not exceed $5,000; provided that if the Company shall receive any cash or other consideration (other than property, which may but need not have a similar substitutional use, and which shall become subject to the lien of the Mortgage) on any such sale or other disposition, it shall, on or before the next succeeding April 1, deposit with the Trustee, or with the trustee or mortgagee of any Prior Lien or Permitted Encumbrance as permitted by the provisions of Section 4 of this Article XI, unless deposited in the Road Replacement Fund or the Equipment Replacement Fund, an amount in cash equal to the cash so received and the fair value to the Company, in the opinion of the Engineer, of such other consideration; and

(c) Make any lease of any of the mortgaged property, other than its lines of railroad (including any leasehold, trackage right or other interest therein), bridges or terminals, or grant any easement, license or other right with respect to any of the mortgaged property which does not interfere with the use and operation of its lines of railroad, bridges and terminals, provided such lease, easement, license or other right is subject to the continuing lien of the Mortgage.

On or before April 1, 1950, and on or before April 1 of each succeeding year, the Company shall file with the Trustee a report for the preceding calendar year signed as in the case of an Officers' Certificate and setting forth in reasonable detail a description of the property sold, exchanged or otherwise disposed of during the preceding calendar year under subsection (b) of this Section 2, the cash or other consideration received by the Company in connection with each such sale, exchange or other disposition (showing separately, in the case of such other consideration, that which shall have become, and that which shall not have become, subject to the lien of the Mortgage), the total amount of consideration received during the preceding calendar year for property so sold, exchanged or otherwise disposed of, and the total amount thereof deposited in the Road Replacement Fund or in the Equipment Replacement Fund or with the trustee or mortgagee of any Prior Lien or Permitted Encumbrance as permitted by the provisions of Section 4 of this Article XI. For the purposes of such report, the period between the date of the execution and delivery of the Mortgage and the close of the year 1949 shall be treated as a calendar year.

Such report shall be accompanied by an Engineer's Certificate stating that the respective considerations received in all cases of sales, exchanges or other dispositions made under subsection (b) of this Section 2 represented the fair value to the Company of the property sold or otherwise disposed of and that in no case was the consideration received in any one sale or other disposition in excess of $5,000 and stating the fair value to the Company of all such consideration other than cash.

In order to evidence the termination of the lien of the Mortgage on any property sold, exchanged or otherwise disposed of in accordance with this Section 2, the Trustee shall execute and deliver confirmatory releases or certificates that such property is free from the lien of the Mortgage from

time to time at the request of the Company upon receiving an Officers' Certificate describing in reasonable detail the property to be released, and stating that it has been sold, exchanged or otherwise disposed of under the provisions of this Section 2 and in full compliance with the terms and conditions prescribed herein, and an Engineer's Certificate stating the fair value to the Company of the property to be released and the fair value to the Company of all consideration other than cash to be received by the Company therefor, and stating that the consideration, including cash, received or to be received by the Company for such property represented the fair value of such property to the Company and does not exceed $5,000.

Section 3. Part A. From time to time unless and until an Event of Default shall have occurred and be continuing, the Company may sell or dispose of, and in connection therewith obtain the release of, any part of the property subject to the lien of the Mortgage, other than cash or purchase money obligations held by the Trustee or Securities deposited and pledged with the Trustee, provided that the applicable provisions, if any, of Part B of Section 1 of this Article XI are complied with; and the Trustee shall release from the lien of the Mortgage any such property if the fair value (as determined by the Engineer in accordance with the provisions of clause (g) of Part B of this Section 3) of the part of the property to be released shall not exceed the aggregate of:

(a) The cash, then being deposited with the Trustee or with the trustee or mortgagee of any Prior Lien or Permitted Encumbrance as permitted by the provisions of Section 4 of this Article XI, which shall have been or is to be concurrently received by the Company as consideration or part consideration for the disposition of the property to be released;

(b) The principal amount of any purchase money obligations, then being deposited and pledged with the Trustee or with the trustee or mortgagee of any Prior Lien

or Permitted Encumbrance as permitted by the provisions of Section 4 of this Article XI, which shall have been received by the Company as consideration or part consideration for the disposition of the part of the property to be released and which shall be secured by a purchase money mortgage thereon; provided that

(1) such purchase money obligations shall mature within five years of the date thereof and shall be included only to the extent that the principal amount thereof does not in the aggregate exceed 60% of the fair value, determined as aforesaid, of the property to be released; and

(2) the aggregate principal amount of such purchase money obligations and all other purchase money obligations pledged with the Trustee pursuant to the provisions of this Section 3, and then held subject to the lien of the Mortgage (or pledged with the trustee or mortgagee of any Prior Lien or Permitted Encumbrance, as permitted by the provisions of Section 4 of this Article XI, and then held by such trustee or mortgagee) shall not exceed 10% of the aggregate principal amount of Bonds outstanding at the date of the Application for release filed with the Trustee pursuant to the provisions of clause (b) of Part B of this Section 3; and

(c) The Expenditures for Additions and Betterments not theretofore Bonded then certified to the Trustee in the Officers' Certificate filed with the Trustee, pursuant to the provisions of clause (c) of Part B of this Section 3, with respect to Additions and Betterments which have been or are to be concurrently acquired by the Company as consideration or part consideration for the disposition of the property to be released and which shall not at the time of acquisition be subject to any lien, other than liens in the nature of Permitted Encumbrances, prior to the lien of the Mortgage.

Part B. Prior to the release of any part of the property from the lien of the Mortgage under this Section 3 there shall in each case have been delivered to the Trustee:

(a) A Certified Resolution authorizing or approving the request for release and stating that in the judgment of the Board of Directors such release is desirable in the conduct of the business of the Company;

(b) An Application for such release;

(c) An Officers' Certificate which shall contain:

(1) a description in reasonable detail of the property a release of which is requested, and the fair value thereof as stated in the Engineer's Certificate required by clause (g) of this Part B;

(2) a statement of the amount of cash, if any, being deposited pursuant to clause (a) of Part A of this Section 3;

(3) a description in reasonable detail of the purchase money obligations, if any, being pledged pursuant to clause (b) of Part A of this Section 3, a statement that such purchase money obligations have been received as consideration or part consideration for the disposition of the property to be released, a statement that such purchase money obligations do not exceed the limitations of clause (b) (1) of Part A of this Section 3, and a computation showing that the principal amount of all such purchase money obligations does not exceed the limitations of clause (b) (2) of said Part A;

(4) a statement of the Expenditures for Additions and Betterments which have been or are to be concurrently acquired as consideration or part consideration for the property to be released, and a description in reasonable detail of such Additions and Betterments, specifying such thereof as may be located on leaseholds;

(5) a statement that no Event of Default has occurred and is continuing;

(6) a statement accompanied by a showing of compliance with Part B of Section 1 of this Article XI with respect to the property the release of which is applied for, or a statement that such property does

not constitute any part of the lines of railroad or any bridge or terminal subject to the lien of the Mortgage or any leasehold, easement, trackage right or other interest therein; and

(7) a statement as to whether the property, the release of which is applied for, is subject to any Prior Lien or Permitted Encumbrance of the nature referred to in Section 4 of this Article XI, and identifying any such liens;

(d) Any cash then being deposited with the Trustee pursuant to clause (a) of Part A of this Section 3, or, if any cash is being deposited with the trustee or mortgagee of any Prior Lien or Permitted Encumbrance as permitted by the provisions of Section 4 of this Article XI, in connection with the release of the property to be released, a written statement of such trustee or mortgagee, as the case may be, certifying that such cash has been deposited with it;

(e) Any purchase money obligations then being deposited and pledged with the Trustee pursuant to clause (b) of Part A of this Section 3, or, if any purchase money obligations are then being pledged with the trustee or mortgagee of any Prior Lien or Permitted Encumbrance as permitted by the provisions of Section 4 of this Article XI, in connection with the release of the property to be released, a written statement of such trustee or mortgagee, as the case may be, certifying that such purchase money obligations have been pledged with it, together, in either event, with any and all assignments thereof, supplemental indentures or other instruments which, as set forth in the Opinion of Counsel furnished pursuant to clause (h) of this Part B, are stated to be necessary or advisable to duly assign to the Trustee subject to such lien, or otherwise to render subject to the lien of the Mortgage, such purchase money obligations;

(f) All such deeds, supplemental indentures, or instruments of further assurance, which, as set forth in the Opinion of Counsel furnished pursuant to clause (h) of this Part B, are stated to be necessary or advisable to subject to the lien of the Mortgage any property consti-

tuting Additions and Betterments included in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, or, in the case of Additions and Betterments located on leaseholds, to subject the leaseholds to such lien;

(g) An Engineer's Certificate stating the fair value to the Company of the property a release of which is requested; and

(h) An Opinion of Counsel to the effect that:

(1) any purchase money obligations pledged with the Trustee, or with the trustee or mortgagee of any Prior Lien or Permitted Encumbrance as permitted by Section 4 of this Article XI, have been validly issued; that the assignments, supplemental indentures or other instruments delivered to the Trustee pursuant to clause (e) of this Part B duly assign to the Trustee subject to such lien, or otherwise render subject to the lien of the Mortgage, such purchase money obligations, or that no such instruments are required for such purpose; and that such purchase money obligations are secured by a valid lien upon the property released subject to no liens prior or equal to the lien thereof, except any liens which were Permitted Encumbrances on the property released and except any Prior Lien to which the property released was subject; and

(2) the property constituting Additions and Betterments specified in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, except such as is located on leaseholds, is subject to the lien of the Mortgage or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures, or instruments of further assurance, if any, specified in said Opinion of Counsel, subject to no defect in title and subject to no lien thereon prior or equal to the lien of the Mortgage, except Permitted Encumbrances, if any, and if any such property is located on any leasehold, as shown by the said Officers' Certificate, that such leasehold is subject to the lien of

the Mortgage, or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures or instruments of further assurance, if any, specified in said Opinion of Counsel, and extends for a term beyond the latest maturity date of any Bonds then outstanding, or that, under the terms of such leasehold, the Company has the right to be reimbursed in respect of the Expenditures for such Additions and Betterments or the right to remove the same upon the termination of such leasehold and that all of the Company's interest in such leasehold (except the last day of the term thereof), including any such right of reimbursement, has been pledged with the Trustee; provided that such Opinion of Counsel may recite that it is based upon certificates or opinions of officers or engineers of the Company as to any matters of fact not of public record.

Section 4. If, under the provisions of any Prior Lien or Permitted Encumbrance on any part of property to be released from the Mortgage, there is required to be made with or to the trustee or mortgagee of such lien a deposit of cash or pledge of purchase money obligations in order to obtain a release therefrom of such part of the property subject to the Mortgage, the Company shall not be required to deposit or pledge with the Trustee such cash or purchase money obligations to the extent that the Company shall deposit such cash and pledge such purchase money obligations with the trustee or mortgagee of such lien.

Section 5. Should any part of the property subject to the lien of the Mortgage be taken by the exercise of the power of eminent domain or should any governmental body at any time exercise any right which it may have to require the sale to it or to a purchaser designated by it of any part of the property subject to the lien of the Mortgage, the Trustee, upon request of the Company, shall release the property so taken or sold upon the Trustee's being furnished with an Opinion of Coun-

sel to the effect that such part of the property subject to the lien of the Mortgage has been lawfully taken or sold as aforesaid. The aforesaid Opinion of Counsel shall state the amount of proceeds received or to be received for the property so taken or sold. Subject to the provisions of Section 4 of this Article XI, the proceeds of all property so taken or sold shall be deposited with the Trustee.

Section 6. In order to confirm, secure or clear (of record or otherwise) the prior right, charge, lien or title with respect to Equipment securing any Equipment Obligation hereafter created under reservation of right set forth in connection with the granting clauses of the Mortgage, the Trustee shall, upon compliance with the subsequent provisions of this Section 6, either confirm as to such Equipment the subordination of the lien of the Mortgage to such prior right, charge, lien or title, or release such Equipment from the lien of the Mortgage.

Prior to any such confirmation of subordination or release there shall be delivered to the Trustee a Certified Resolution requesting such action by the Trustee and an Officers' Certificate which shall describe the Equipment as to which a confirmation of subordination or a release is requested, shall describe the Equipment Obligation to be secured by a prior right, charge, lien or title thereon, shall state that such Equipment was acquired or constructed for the use of the Company within two years preceding the date of such Certificate, and shall state that none of said Equipment has theretofore been acquired or constructed by expenditures from the Equipment Replacement Fund.

There shall also be furnished to the Trustee an Opinion of Counsel and the instrument or instruments to be executed and delivered by the Trustee in order to effect the requested confirmation of subordination or release. Such Opinion of Counsel shall approve the form of the instrument or instruments furnished therewith and shall express the opinion that, after the execution and delivery by the Trustee of such con-

firmation of subordination or release, the lien of the Mortgage will continue to attach to all right, title or interest of the Company then or thereafter existing with respect to the Equipment described in the Certificate, subject only to the prior right, charge, lien or title of the Equipment Obligations therein described; but such expression of opinion may be predicated upon the execution and delivery of other instruments in addition to those specified above, or the taking of other action, in which case the Company shall cause such other instruments to be executed and delivered or such other action to be taken.

Section 7. Unless an Event of Default shall have occurred and be continuing, all moneys held by the Trustee under this Article XI, at the option of the Company:

(a) May be withdrawn by the Company upon its written Application, accompanied by a Certified Resolution authorizing such Application, in an amount equal to the Expenditures for Additions and Betterments acquired or constructed after the date of the deposit of the moneys desired to be withdrawn, provided such Expenditures have not been Bonded; but only upon delivery to the Trustee of an Officers' Certificate, dated not more than 30 days prior to the delivery thereof, containing a description in reasonable detail of the property constituting the Additions and Betterments represented by such Expenditures and a statement of the amount of such Expenditures, that no part of such Expenditures has theretofore been Bonded, and that no Event of Default has occurred and is continuing; and there shall be delivered to the Trustee, accompanying said Application, deeds and instruments of transfer and an Opinion of Counsel of the character required in clauses (f) and (h) (2) of Part B of Section 3 of this Article XI.

(b) May be withdrawn by the Company upon its written Application, accompanied by a Certified Resolution authorizing such Application, in an amount equal to 133⅓% of the principal amount of Bonds to the authentication and delivery of which the Company would then

be entitled on account of the Net Expenditures for Additions and Betterments under the provisions of Section 3 of Article III; but upon any such Application the Company shall comply with all applicable provisions of Section 3 of Article III relating to the authentication and delivery of Bonds and the provisions of subsections (d) (4) and (e) of Section 9 of Article III. Any withdrawal of cash under this paragraph shall be in lieu of the right of the Company to the authentication and delivery of Bonds on account of such Net Expenditures for Additions and Betterments.

(c) May be withdrawn by the Company upon its written Application in an amount not exceeding the principal amount or the cost (exclusive of interest) to the Company, whichever is less, of any Bonds (not theretofore Bonded, or acquired, retired, cancelled or paid through the operation of any sinking fund or analogous fund established pursuant to the Mortgage) theretofore authenticated and delivered under the Mortgage, which shall have been cancelled or surrendered to the Trustee for cancellation, but only upon delivery to the Trustee of

(1) an Officers' Certificate describing the Bonds the cancellation or surrender for cancellation of which forms the basis for the proposed withdrawal of cash, stating the cost thereof (exclusive of interest) to the Company, and stating that said Bonds have theretofore been duly issued and outstanding and reacquired by the Company, that none of said Bonds has theretofore been Bonded, or acquired, retired, cancelled or paid through the operation of any sinking fund or analogous fund established pursuant to the Mortgage, and that no Event of Default has occurred and is continuing; and

(2) the particular Bonds together with all appropriate coupons, if any, appertaining thereto.

(d) May be applied, upon the written request of the Company, signed by its President or a Vice President, accompanied by a Certified Resolution authorizing such request, to the payment at maturity or to the redemption of Bonds then outstanding of any series determined by

said Resolution. Any such request of the Company for the application of moneys pursuant to this subsection (d) shall also be accompanied by an Officers' Certificate stating that no Event of Default has occurred and is continuing.

The Company covenants that whenever any redemption of Bonds shall be applied for under the provisions of subsection (d) of this Section 7, it will take all action necessary, or authorize the Trustee to take all action necessary, to redeem such Bonds at the earliest applicable redemption date, and will deposit with the Trustee on or before the date fixed for redemption additional moneys sufficient to pay the premium, if any, and all accrued and unpaid interest on the Bonds so to be redeemed to the date so fixed for redemption and all publishing costs and other expenses to be incurred by the Trustee in the redemption of such Bonds.

If and when the Company shall so request by Certified Resolution filed with the Trustee, provided no Event of Default shall have occurred and then be continuing, any moneys at the time held under this Article XI by the Trustee shall be invested by it in such direct obligations of the United States of America maturing within two years as shall be specified in such Resolution. Such obligations shall be held by the Trustee in lieu of the moneys invested therein subject to its absolute right to liquidate such investment in such manner and at such time or times as, in the exercise of its discretion, it deems to be advisable. The Company covenants that upon demand by the Trustee it will replace all moneys lost through any investment made and liquidated as by this Section 7 contemplated, and will pay or reimburse the Trustee for all accrued interest, commissions and expense paid or incurred in connection with the acquisition and liquidation of such investment. The Trustee shall have the right and duty to receive all amounts paid on account of any investment made by it as hereby contemplated, including all

interest payments, shall retain such interest payments pending liquidation of such investment, and after such liquidation shall retain so much of such interest payments as may be necessary to replace any loss of moneys suffered or to pay or reimburse itself for any accrued interest, commissions or expense paid or incurred in connection with the acquisition and liquidation of such investment and not replaced, paid or reimbursed by the Company as above provided, and shall pay over any balance of such interest payments to the Company.

Section 8. The Trustee shall not be required under any of the provisions of this Article XI to release any part of the property subject to the lien of the Mortgage from the lien hereof at any time when an Event of Default shall have occurred and be continuing; but, notwithstanding any such Event of Default, the Trustee may do so upon compliance by the Company with the provisions of Section 3 of this Article XI except clause (c) (5) of Part B of said Section 3, if the Trustee in its discretion shall deem that such release will not adversely affect the interests of the Bondholders, or if the holders of a majority in principal amount of the Outstanding Bonds shall request the Trustee so to do.

Section 9. In no event shall any purchaser or purchasers of any part of the mortgaged property sold or disposed of under any provisions of this Article XI be required to ascertain the authority of the Trustee to execute any release, to see to the application of the purchase money or to inquire as to any facts required by the provisions hereof for the exercise of such authority.

ARTICLE XII

Consolidation, Merger, Conveyance and Lease

Section 1. Nothing in the Mortgage or in any Bond shall prevent the consolidation or merger of the Company with or into any other corporation lawfully entitled to acquire and operate the same or successive consolidations or mergers to which the Company or its successor or successors shall be a party or parties, or shall prevent any conveyance or lease, subject to the continuing lien of the Mortgage, of all or substantially all of the mortgaged property to any such other corporation; provided, however, that:

(a) Every such consolidation, merger, conveyance or lease shall be on such terms as shall fully preserve the lien and security of the Mortgage and the rights and powers of the Trustee and of the Bondholders hereunder;

(b) Any such lease shall be made expressly subject to immediate termination by the Trustee at any time upon the occurrence of an Event of Default and during the continuance thereof, and also by the purchaser of the property so leased upon any sale thereof whether such sale be made under the power of sale hereby conferred or under judicial proceedings;

(c) Upon any such consolidation, merger, conveyance or lease, the successor corporation or the lessee corporation, as the case may be, shall expressly assume the due and punctual payment of the principal of and interest on all of the Bonds according to their tenor and purport, and the due and punctual performance of all of the terms, covenants and conditions of the Mortgage required to be kept, preserved and performed by the Company; and

(d) In the event of any such consolidation, merger or conveyance, the successor corporation, subject to the exceptions provided in Section 2 of this Article XII, shall expressly grant and convey to the Trustee, as further

security for all Bonds issued hereunder, and shall subject to the lien of the Mortgage, all of its property and franchises then owned and which it may thereafter acquire of the character and kind which, under the terms of the Mortgage, are required to be subjected to the lien thereof, all as fully as though such consolidation, merger or sale had not taken place and such property and franchises had been acquired by the Company.

Compliance with the foregoing requirements of this Section 1 shall be evidenced by a supplemental indenture.

For the purposes of this Article XII, the term "successor corporation" shall mean any corporation resulting from any such consolidation or merger or any corporation to which such conveyance shall be made, and the term "lessee corporation" shall mean any corporation to which any such lease shall be made.

The conditions contained in this Section 1 shall not be construed as requiring that in the event of any such consolidation, merger, conveyance or lease a separate income account shall thereafter be maintained in respect of the operation of the properties subject to the lien of the Mortgage, but in lieu thereof provisions may be made which shall be equitable and practical with respect to the apportionment of the revenues and expenses of any such successor or lessee corporation to establish a basis for the determination and application of Available Net Income as required under Article V or for the purpose of determining and applying funds to the payment of interest on any contingent interest bonds of the Company or for the purpose of determining the amount of payments required to be made into or out of the Road Replacement Fund, Equipment Replacement Fund and Sinking Fund or for any other purpose fulfilling the provisions and conditions of the Mortgage; provided that any such provisions shall be approved by the Interstate Commerce Commission or other governmental body having jurisdiction of

the consolidation, merger, conveyance or lease, and, unless such Commission or other governmental body shall find that no material alteration of the rights of the Bondholders is thereby effected and shall so determine, they shall also be consented to or approved, in the manner provided in Article XIII, by the holders of not less than 66⅔% in aggregate principal amount of the then Outstanding Bonds, and of the holders of not less than 66⅔% in aggregate principal amount of such of said Bonds as are then Publicly Held.

Section 2. In the event that under the provisions of Section 1 of this Article XII there shall be a consolidation or merger of the Company with or into, or a conveyance by the Company of all or substantially all of the mortgaged property to, a successor corporation, then the successor corporation shall if it shall have been a Railroad Subsidiary immediately prior thereto, and may but need not if it shall have been a Class I Carrier (not a Railroad Subsidiary) immediately prior thereto, make an express grant to the Trustee of its property and franchises as required by subsection (d) of Section 1 of this Article XII, and in the absence of such express grant by any such successor corporation (except a Railroad Subsidiary), the Mortgage shall not by reason of such consolidation, merger or conveyance constitute and become a lien upon, and the term "mortgaged property" as herein used shall not include or comprise:

(i) Any property or franchise which, prior to such consolidation, merger or conveyance, was owned by any corporation with or into which the Company or any successor corporation may be consolidated or merged or to which the Company or any successor corporation may make any such conveyance, or any property or franchises which theretofore may have been acquired by the Company or any successor corporation and which prior to such consolidation, merger or conveyance were not subject to the lien of the Mortgage; or

(ii) Any property or franchise which may be purchased, constructed or otherwise acquired by any successor corporation after the date of any such consolidation, merger or conveyance, excepting only the property, rights and franchises referred to in subsections (a) and (b) of this Section 2, which, as and when purchased, constructed, or otherwise acquired by such successor corporation, shall be and become subject to the lien of the Mortgage.

Any supplemental indenture provided for in Section 1 of this Article XII which, by reason of the provisions of this Section 2, is not required to contain an express grant by the successor corporation of all of its property and franchises pursuant to subsection (d) of said Section 1, shall contain:

(a) A grant by such successor corporation confirming the lien of the Mortgage upon the mortgaged property and subjecting to the lien and operation hereof, as fully as though such consolidation, merger or conveyance had not taken place and the same had been acquired or made by the Company:

(1) all property, rights and franchises thereafter constructed or acquired which shall be appurtenant or incident to any property that is subject to the lien of the Mortgage at the time of such consolidation, merger or conveyance;

(2) all property, rights and franchises thereafter constructed or acquired in whole or in part by the issuance of Bonds or Prior Lien Bonds;

(3) all property, rights and franchises thereafter constructed or acquired with cash then or at any time thereafter held by the Trustee or by the trustee under any mortgage securing Prior Lien Bonds or in exchange for property released from the lien thereof, or the acquisition or construction of which has been or shall be made the basis for the withdrawal of cash or the issuance of Bonds;

(4) all repairs, renewals, replacements, substitutions and alterations of, to, upon or for such property, rights and franchises;

(5) all property, rights and franchises thereafter acquired pursuant to any covenant herein contained which may be purchased, constructed or otherwise acquired by such successor corporation from and after the date of such consolidation, merger or conveyance, as the case may be; and

(6) all other property of every kind and description, whether real, personal or mixed, whether tangible or intangible, and whether consisting of present or future interests, thereafter constructed or acquired by such successor corporation which is appurtenant to or used in connection with any property acquired by the issuance of Bonds or Prior Lien Bonds or acquired with cash then or at any time thereafter held by the Trustee or by the trustee under any mortgage securing Prior Lien Bonds or acquired in exchange for property released from the lien of the Mortgage or any Prior Lien;

(b) A covenant on the part of such successor corporation that all property and franchises thereafter acquired by it and necessary to the full and complete performance of any covenant herein contained relating to the deposit of securities, to the maintenance and upkeep of the mortgaged property, to the supply of adequate and efficient equipment to the lines of railroad included therein, to the making of all needful and proper repairs, renewals, replacements, substitutions and alterations and to the preservation and keeping in full effect of all rights, franchises and privileges subject to the lien hereof, or of any other covenant herein, shall be conclusively deemed and taken to be acquired by it in performance of such covenant and to have become subject to the lien of the Mortgage; and

(c) A covenant by such successor corporation to keep the mortgaged property, so far as practicable, readily identifiable, and a stipulation that the Trustee, by accept-

ing or joining in such supplemental indenture, shall not be deemed impliedly to have waived any rights it would otherwise have had.

SECTION 3. Nothing contained in the Mortgage or in any Bond shall prevent the Company from merging into itself or acquiring by conveyance all or any part of the property of any other corporation, and the properties so acquired by the Company shall become subject to the lien of the Mortgage to the extent provided in the granting clauses of the Mortgage, subject only to such encumbrances and purchase money liens as shall exist or be created at the time of such merger or acquisition; provided, however, that in case the Company shall acquire by any such merger or conveyance all or substantially all of the properties of any other corporation which shall be a Class I Carrier, the properties so acquired by the Company shall not become subject to the lien of the Mortgage unless such other corporation shall have been a Railroad Subsidiary immediately preceding such merger or conveyance, or unless such properties were (a) acquired with cash held by the Trustee under any provision of the Mortgage or by the trustee under any mortgage securing Prior Lien Bonds, (b) acquired in exchange for property released from the lien of the Mortgage, (c) made the basis for the authentication and delivery of Bonds or for the withdrawal of cash held by the Trustee under any provision of the Mortgage, (d) acquired pursuant to any covenant contained in the Mortgage, (e) acquired in whole or in part by the issuance of Bonds or Prior Lien Bonds, or (f) acquired by expenditures from the Road Replacement Fund provided for by Article VI.

SECTION 4. In case the Company shall be consolidated with or merged into or shall make a conveyance to any other corporation as permitted and upon the terms provided in Section 1 of this Article XII, the successor corporation, upon execut-

ing and delivering to the Trustee, and causing to be recorded, the supplemental indenture provided for in Section 1 of this Article XII, shall succeed to and be substituted for the Company with the same force and effect as if it had been named in and had executed the Mortgage as the party of the first part hereto, and shall have and possess and may exercise, subject to the terms and conditions of the Mortgage, each and every power, authority and right herein reserved to or conferred upon the Company; and thereupon such successor corporation may cause to be signed and may issue, either in its own name or in the name of the party of the first part, and under the corporate seal of either the party of the first part or the successor corporation, any and all Bonds which shall not have been signed theretofore by the party of the first part and delivered to the Trustee; and the Trustee, upon the order of such successor corporation, and subject to all the terms, conditions and limitations prescribed in the Mortgage, shall authenticate any and all Bonds which previously shall have been signed by the party of the first part and delivered to the Trustee for authentication, and any Bonds which such successor corporation shall thereafter cause to be signed and delivered to the Trustee for such purposes, and deliver the same to such successor corporation or upon its order.

SECTION 5. All Bonds issued by any successor corporation shall have the same legal rank and security in all respects as the Bonds theretofore issued by the Company in accordance with the terms of the Mortgage. In case of any such consolidation, merger or conveyance such changes in phraseology and form (but not in substance) may be made in the Bonds and coupons thereafter to be issued as may be appropriate to reflect any such consolidation, merger or conveyance.

SECTION 6. For every purpose of the Mortgage, any act or proceeding by any provision of the Mortgage authorized, required or permitted to be done or performed by the stock-

holders or by any board or officer of the Company shall and may be done and performed, with like force and effect, by the stockholders or by the like board or officer of any successor corporation, subject, however, to the provisions of Section 4 of this Article XII.

SECTION 7. The Company covenants and agrees that no consolidation or merger and no conveyance or lease of the mortgaged property as a whole or substantially as a whole, to which the Company or any successor corporation shall be a party, shall be made or effected unless the terms, covenants and conditions contained in this Article XII shall have been complied with and observed by the Company or the successor corporation, as the case may be.

ARTICLE XIII

CONCERNING THE BONDHOLDERS

SECTION 1. Whenever any action is taken by the Bondholders in the exercise of any or all of the following powers:

(a) To remove the Trustee and appoint a successor trustee pursuant to the provisions of Article XV;

(b) To give any notice to the Company or to the Trustee, or to give any directions to the Trustee, or to consent to the waiving of any default hereunder and its consequences, or to take any other action authorized to be taken by Bondholders pursuant to any of the provisions of Article XVI;

(c) To consent to an extension to any fixed or determinable date of the time or times of payment of the principal of, or the time or times of payment of any Fixed Interest or any unpaid accumulations of Contingent Interest on, all of the Bonds of any or all series which at the time shall be outstanding, subject, however, to the provisions of Section 3 of Article XIX;

(d) To consent to the execution of an indenture or indentures supplemental hereto pursuant to the provisions of Section 2 of Article XIX; or

(e) To take any other action or give any other consent authorized to be taken or given by or on behalf of the holders of any specified percentage or portion of the aggregate principal amount of the Bonds under any other provision of the Mortgage or under applicable law or, if no percentage is specified, by the holders of not less than a majority in principal amount of all Outstanding Bonds;

the fact that at the time of taking any such action the holders of a specified percentage in aggregate principal amount of Bonds have joined therein may be evidenced by the record of the holders of Bonds voting in favor thereof in person or by proxy appointed in writing at any meeting of Bondholders

ARTICLE XIV

Bondholders' Meetings

Section 1. The Trustee may at any time call a meeting of Bondholders to take any action specified in Section 1 of Article XIII, to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of Bondholders, setting forth the time and place of such meeting and the action proposed to be taken at such meeting, shall be published at least once in a Daily Newspaper in the Borough of Manhattan, City and State of New York, not less than 30 days nor more than 60 days prior to the date fixed for the meeting. A copy of such notice shall be mailed at least 30 days prior to the date fixed for the meeting to the registered holders of registered Bonds without coupons and of coupon Bonds registered as to principal at their last addresses as they shall appear upon the bond registry books, but neither failure to give such notice by mail nor any defect therein shall affect the validity of such meeting.

Section 2. In case at any time the Company pursuant to a resolution of its Board of Directors, or the holders of at least 10% in aggregate principal amount of the Outstanding Bonds, shall have requested the Trustee to call a meeting of Bondholders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have made the publication of the notice of such meeting within 20 days after receipt of such request, then the Company or the holders of Outstanding Bonds, as the case may be, in the amount above specified may determine the time and place for such meeting and may call such meeting to take any action authorized in Section 1 of Article XIII, by publishing and mailing notice thereof as provided in Section 1 of this Article XIV.

Section 3. At any meeting of Bondholders and at any meeting of the holders of Outstanding Bonds that are Publicly Held, as provided in Section 7 of this Article XIV, no person shall be entitled to vote unless he is (a) a holder of coupon Bonds transferable by delivery, or (b) a registered holder of Bonds (whether the same be fully registered or registered only as to principal), or (c) a person appointed by an instrument in writing as proxy for a holder of coupon Bonds transferable by delivery or for a registered holder of Bonds (whether the same be fully registered or registered only as to principal). The only persons who shall be entitled to speak at any meeting of Bondholders shall be the persons entitled to vote at such meeting and their counsel and any representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

Section 4. Notwithstanding any other provisions of the Mortgage, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Bondholders, in regard to proof of the appointment of proxies, and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidences of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem advisable. Except as otherwise permitted or required by any such regulations, the appointment of any proxy shall be proved in the manner specified in Section 2 of Article XIII.

The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Bondholders as provided in Section 2 of this Article XIV, in which case the Company or the Bondholders calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the holders of a majority

in principal amount of Bonds the holders of which shall be present or represented and entitled to vote at the meeting.

At any meeting each Bondholder or proxy shall be entitled to one vote for each and every unit of the lowest principal amount of any of the Bonds then outstanding, in respect of which he is entitled to vote at the meeting; provided, however, that no vote shall be cast or counted at any meeting in respect of any Bond challenged as not outstanding and ruled by the chairman of the meeting to be not an Outstanding Bond. The chairman of the meeting shall have no right to vote other than by virtue of Outstanding Bonds held by him or instruments in writing as aforesaid duly designating him as the person to vote on behalf of other Bondholders.

Section 5. Any meeting of the Bondholders may be adjourned from time to time as and when, and to such time and place, as may be approved by a majority of the votes which the holders of Bonds at the time present or represented may be entitled to cast, irrespective of the aggregate principal amount of Bonds held by such holders; and the meeting may be held as so adjourned without further notice.

Section 6. The vote upon any proposal submitted at a meeting of Bondholders shall be by written ballots on which shall be subscribed the signatures of the holders of Bonds or their representatives by proxy and the serial number or numbers of the Bonds held or represented by them. The chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any proposal and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record in duplicate of the proceedings of each meeting of Bondholders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes cast

on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was published as provided in Section 1 of this Article XIV. The record shall show the serial numbers of the Bonds voted for or against any proposal submitted at the meeting. The record shall be signed and verified by the permanent chairman and secretary of the meeting and one of the duplicates shall be delivered to the Company and the other to the Trustee to be preserved by the Trustee. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

Section 7. Notwithstanding any of the foregoing provisions of this Article XIV, whenever holders of Outstanding Bonds that are Publicly Held shall become entitled to elect two members of the Board of Directors of the Company pursuant to Section 5 of Article XIII, a special meeting of such holders shall be held for that purpose not later than the next succeeding July 1, at which, and annually thereafter at special meetings of such holders to be held for the purpose on July 1 (or, if July 1 be a legal holiday, on the next full business day thereafter), the holders of a majority in principal amount of the Outstanding Bonds that are Publicly Held, present in person or by proxy, shall be entitled to elect such directors for a term of one year, who shall hold office until their respective successors are elected and qualified. Each such meeting shall be called by the Trustee, which shall publish a notice thereof setting forth the time, place and purpose of such meeting, at least once in a Daily Newspaper in the Borough of Manhattan, City and State of New York, not less than 30 days prior to the date fixed for the meeting, and shall mail a copy of such notice at least 30 days prior to the time fixed for the meeting to the registered holders of Outstanding Bonds that are Publicly Held at their addresses as they shall appear on the bond registry books at the close of business on

May 1 next preceding the date fixed for the meeting (but neither failure to give such notice by mail nor any defect therein shall affect the validity of such meeting). The record date for the purpose of ascertaining such registered holders as are entitled to vote at each such meeting shall be the next preceding May 1. The registered holder of each Bond of Series A, by the acceptance thereof, shall appoint and be deemed to have appointed the Trustee, or such person or persons as the Trustee may designate, as his proxy for the exercise of the voting rights attached to such Bond, and at each meeting the Trustee, or such person or persons as it may designate by an instrument in writing, may cast the vote or votes that such registered holder would be entitled to cast if personally present, unless such registered holder elects to exercise such voting rights in person or by proxy other than the Trustee. Except as aforesaid, the call, notice, organization, conduct, record and payment of the expenses of the special meetings referred to in this Section 7, and the qualifications of Bondholders entitled to vote, the number of votes per Bond, and the manner of voting at such meetings, shall be governed by the applicable provisions of Article XIII, this Article XIV and Section 9 of Article XV.

The Trustee may appoint a member of the Board of Directors to fill any vacancy occurring during the term of any director elected pursuant to this Section 7, and the director so appointed shall serve for the remainder of such term and until his successor is elected and qualified.

Section 8. Nothing in this Article XIV contained shall be deemed or construed to authorize or permit, by reason of any call of a meeting of Bondholders or any rights expressly or impliedly conferred hereunder to make such call, any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the Bondholders under any of the provisions of the Mortgage or of the Bonds.

ARTICLE XV

Concerning the Trustee

Section 1. The Trustee accepts the trusts hereby created upon the terms and conditions in this Article XV specified, to all of which the Company and the holders of the Bonds and coupons at any time outstanding, by their acceptance thereof, agree.

Whenever and so long as an Event of Default has occurred and is continuing, the Trustee shall exercise such of the powers vested in it by the Mortgage, or take such other action with respect to such default, as in its judgment is necessary or desirable for the protection of the interests of the holders of Bonds issued hereunder.

No provision of the Mortgage shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, provided, however, that:

(a) Prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, the duties and obligations of the Trustee shall be determined solely by the express provisions of the Mortgage, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in the Mortgage.

(b) No implied covenants or obligations shall be read into the Mortgage against the Trustee.

(c) In the absence of bad faith on the part of the Trustee, the Trustee may rely, and shall be protected in acting, upon any certificates, statements, reports or opinions furnished to the Trustee; but in the case of any such certificates, statements, reports or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of the Mortgage.

(d) The Trustee shall not be liable for any error of judgment made in good faith by a responsible officer of the Trustee, if such officer shall have been selected and continued in office in the exercise of due care, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

(e) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of not less than a majority in principal amount (or such other percentage of the principal amount specifically prescribed by the Mortgage for a particular action) of the Outstanding Bonds relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under the Mortgage.

(f) In the case of any action to be taken or suffered by the Trustee, wherein the Mortgage specifically authorizes such action notwithstanding the continuance of an Event of Default, the Trustee may rely on certificates and opinions furnished to the Trustee, but shall be under the same duty to examine the same to determine whether or not they conform to the requirements of the Mortgage as though an Event of Default had not occurred and been continuing.

(g) Any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by an instrument signed in the name of the Company by the President or a Vice President and the Secretary or an Assistant Secretary, unless other evidence in respect thereof be herein specifically prescribed.

(h) The Trustee may consult with counsel and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

(i) The Trustee shall be under no obligation to exercise any of the trusts or powers hereof at the request, order

or direction of any of the Bondholders, pursuant to the provisions of the Mortgage, unless such Bondholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which may be incurred therein or thereby.

The Trustee shall not be personally liable in case of entry by it upon the mortgaged property for debts contracted or liability or damages incurred in the management or operation of said property.

The Trustee shall not be liable for any action taken by it in good faith and believed by it, in the exercise of due care, to be authorized or within the discretion or power conferred upon it by the Mortgage.

Section 2. None of the provisions contained in the Mortgage shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers; but the Trustee, in its sole discretion and in order to preserve the mortgaged property, may advance moneys for the purpose of paying taxes, rentals or otherwise, and for such advances, together with interest thereon at the rate of 4% per annum, the Trustee shall have a lien on the mortgaged property prior to any claim of the Bondholders, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

Section 3. Should any taxes or other governmental charges be imposed upon the Trustee, in its capacity as Trustee hereunder, which it may be required to pay under any present or future law of the United States of America or of any other authority therein having jurisdiction, the Trustee shall be reimbursed and indemnified therefor by the Company, and any liability incurred or amounts paid by the Trustee in re-

spect of any such taxes or other governmental charges, until paid, shall constitute a lien upon the mortgaged property prior to any claim of the holders of Bonds, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

Section 4. Except as herein otherwise provided, any notice or demand which by any provision of the Mortgage is required or permitted to be given or served by the Trustee or any other person on the Company, shall be deemed to have been sufficiently given and served for all purposes by being deposited, postage prepaid, in a United States Post Office letter box or mail chute, addressed (until another address is filed by the Company with the Trustee and thereafter if addressed to such new address) as follows: Duluth, South Shore and Atlantic Railroad Company, Minneapolis, Minnesota. Any notice, request or demand by any Bondholder to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or made at the principal office of the Trustee.

Section 5. The Trustee shall not be bound to recognize any person as the holder of a Bond outstanding hereunder unless and until the Bond is submitted to the Trustee for inspection if required, and the title thereto established to the satisfaction of the Trustee.

Except as provided in Section 7 of Article XI, the Trustee shall be under no duty to invest any moneys paid to or deposited with it or to its credit pursuant to any of the provisions of the Mortgage, and shall not be liable for interest on any moneys during the period such moneys remain on deposit with it, except such interest as the Trustee may agree with the Company to pay.

Any action at any time taken by the Trustee pursuant to or with respect to the Mortgage at the request or with the consent or approval (express or implied) of any person who at the time is the holder of any Bond secured hereby, shall be conclusive and binding upon all future holders of such Bond.

All rights of action under the Mortgage may be enforced by the Trustee without the possession of any of the Bonds or the production thereof on the trial or other proceedings relative thereto.

Section 6. The recitals contained herein and in the Bonds (except as contained in the Trustee's certificate of authentication endorsed on the Bonds), shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the value of the mortgaged property, or as to the title of the Company thereto, or as to the validity or sufficiency of the Mortgage or of the Bonds or coupons. The Trustee shall not be accountable for the use or application by the Company of any of the Bonds or of the proceeds of such Bonds.

Section 7. The Trustee or any paying agent or bond registrar, in its individual or any other capacity, may become the owner or pledgee of Bonds or coupons with the same rights as if he or it were not such Trustee, paying agent or bond registrar.

Section 8. Subject to the provisions of Section 4 of Article XVIII, all cash received by the Trustee hereunder, until used or applied as herein provided, and all cash received by the Trustee as paying agent in respect of the Bonds of any series, shall be held in trust for the purposes for which it was received, but need not be segregated from other funds except to the extent required by law. So long as no Event of Default

shall have occurred and be continuing, any interest allowed on any such cash shall be paid from time to time to or upon the written order of the Company, signed by its President or any Vice President.

Section 9. The Company covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to receive, reasonable compensation (which shall not be limited by the statutes of any state relating to the compensation of a trustee of an express trust), and the Company will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by it in accordance with any of the provisions of the Mortgage (including the reasonable compensation and the expenses and disbursements of its counsel and of all persons not regularly in its employ) except any such expense, disbursement and advance as may arise from negligence or bad faith of the Trustee. The Company also covenants to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on the part of the Trustee, arising out of or in connection with the acceptance or administration of the trusts created by the Mortgage, including the costs and expenses of defending itself against any claim of liability in the premises. The liability of the Company with respect to the foregoing covenants in this Section 9 shall survive the satisfaction and discharge of the Mortgage. The obligations of the Company under this Section 9 to compensate and indemnify the Trustee and to pay or reimburse it for expenses, disbursements and advances shall constitute additional indebtedness hereunder and shall be secured by the lien hereof prior to the claims of the holders of Bonds upon the mortgaged property, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

Section 10. Whenever in the administration of the trusts created by the Mortgage the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Trustee, and such Certificate shall be full warrant to the Trustee for any action taken, suffered or omitted by it under the provisions of the Mortgage upon the faith thereof.

Section 11. Any company into which the Trustee or any successor to it in the trusts created by the Mortgage may be merged, or with which it or any such successor may be consolidated, or any company resulting from any merger, conversion, or consolidation to which the Trustee or any such successor shall be a party, provided such company shall be a trust company or a banking corporation in good standing organized under the laws of the United States or of any State, and shall have an office in the Borough of Manhattan, City and State of New York, and shall have a capital and surplus aggregating at least $5,000,000, shall be the successor trustee under the Mortgage without the execution or filing of any paper or the performance of any further act on the part of the parties hereto. In case any of the Bonds shall have been authenticated but not delivered, any such successor trustee may adopt the certificate of authentication of Central Hanover Bank and Trust Company, or of any successor to it, as Trustee hereunder, and deliver the same so authenticated; and in case any of the Bonds shall not have been authenticated, any such successor trustee may authenticate such Bonds either in the name of any predecessor trustee or in its own name as such successor trustee, and in all such cases

such certificate shall have the same full force which it is anywhere in the Bonds or the Mortgage provided that the certificate of the Trustee shall have; provided, however, that the right to authenticate Bonds in the name of Central Hanover Bank and Trust Company shall extend only to its successor by merger, conversion or consolidation.

SECTION 12. The Trustee or any successor trustee may at any time resign and be discharged from the trusts hereby created by giving to the Company written notice of such resignation and specifying a date upon which such resignation shall take effect. Notice of such resignation shall be published once each week for two successive weeks in a Daily Newspaper in the Borough of Manhattan, City and State of New York, the first publication to be not less than 60 days and not more than 90 days before the date specified in said notice for the resignation to take effect. Such resignation shall take effect on the date specified in said notice or on the date of the appointment of a successor trustee as hereinafter provided, whichever shall be earlier.

The Trustee or any successor trustee may be removed with or without cause at any time by the holders of a majority in principal amount of the Outstanding Bonds by the delivery to such Trustee or successor trustee, as the case may be, of an instrument or concurrent instruments signed by such holders or their attorneys-in-fact duly authorized. Any trustee who shall resign or be so removed shall be entitled to its reasonable compensation then accrued and unpaid and to reimbursement for proper expenses theretofore incurred and not previously reimbursed.

SECTION 13. In case at any time the Trustee or any successor trustee shall resign or shall be removed or shall become incapable of acting or shall be adjudged bankrupt or insol-

vent, or if a receiver of the Trustee or any successor, or of its property, shall be appointed, or if any public officer in the exercise of his official powers shall take charge or control of the Trustee or any successor, or its property or affairs, or if a vacancy shall arise in the trusteeship under the Mortgage from any cause, a successor trustee or successor trustees may be appointed by the holders of a majority in principal amount of the Outstanding Bonds, by an instrument or concurrent instruments in writing signed and acknowledged by such holders or their attorneys-in-fact duly authorized and delivered to such new trustee hereunder, notification being given to the Company and the predecessor trustee; provided, however, that until a new trustee shall be appointed by the holders of Outstanding Bonds as aforesaid and shall accept such appointment, the Company, by an instrument duly executed and acknowledged by its proper officers, by authority of its Board of Directors, shall appoint a Trustee to fill the vacancy until the appointment of a new Trustee by such holders as herein authorized. The Company shall publish notice of any such appointment made by it or by the holders of Outstanding Bonds as aforesaid once each week for two successive weeks in a Daily Newspaper in the Borough of Manhattan, City and State of New York, the first publication in each such Daily Newspaper to be within 10 days after such appointment has been made. Any new trustee appointed by the Company shall, immediately and without further act, be superseded by a trustee appointed by the holders of Outstanding Bonds in the manner above provided if the appointment by such holders be made within one year after the first publication of the notice of the appointment of the new trustee by the Company.

Every Trustee appointed under any of the provisions of this Section 13 shall be a trust company or a banking corporation in good standing organized under the laws of the United

States or of any State, having an office in the Borough of Manhattan, City and State of New York, and having a capital and surplus aggregating at least $5,000,000.

If in a proper case no appointment of a successor trustee shall be made by the holders of Outstanding Bonds pursuant to the foregoing provisions of this Section 13 within six months after the happening of any of the events set forth in the first paragraph of this Section 13, the holder of any Bond outstanding hereunder or any retiring trustee hereunder may apply to any court of competent jurisdiction to appoint a successor trustee. Said court may thereupon, after such notice, if any, as said court may deem proper and prescribe, appoint a successor trustee. Any trustee appointed by the Company shall, immediately and without further act, be superseded by a trustee appointed by any such court in the manner above provided, if such appointment by such court be made within 18 months after the first publication of the notice of the appointment of the new trustee by the Company. If application shall be made to any such court within such 18 months' period in this paragraph provided, the holders of Outstanding Bonds shall have no power to appoint a trustee as in this Section 13 provided unless such application shall be dismissed within one year after the first publication of the notice of the appointment of a new trustee by the Company.

Any successor trustee appointed hereunder shall execute, acknowledge and deliver to the predecessor trustee hereunder and to the Company an instrument in writing accepting such appointment hereunder, and thereupon said successor trustee, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor in trust hereunder, with like effect as if originally named as trustee herein;

but the retiring trustee, nevertheless, on the written request of the Company or of the successor trustee, and upon payment of its unpaid compensation and expenses, if any, shall execute, acknowledge and deliver such instruments of conveyance and further assurances and do such other things as reasonably may be required for more fully and certainly vesting and confirming in said successor trustee all the right, title and interest of the retiring trustee in and to the mortgaged property and said rights, powers, trusts, duties and obligations; and the retiring trustee shall also, upon like request and upon payment of its unpaid compensation and expenses as aforesaid, pay over, assign and deliver to the successor trustee any money and other property subject to the lien of the Mortgage then held by it, and deliver any and all records, or copies thereof, in respect of the trusts hereunder which it may have, and upon request of any such successor trustee the Company shall execute, acknowledge and deliver any and all deeds, conveyances or other instruments in writing for more fully and certainly vesting in and confirming to such successor trustee said estates, properties, rights, powers, duties and obligations, provided, however, that such successor trustee shall not authenticate Bonds in the name of such predecessor trustee.

SECTION 14. If at any time or times it shall be necessary or prudent in order to conform to any legal requirement, or the Trustee shall be advised by counsel satisfactory to it that it is so necessary or prudent in the interest of the Bondholders, or if the holders of a majority in principal amount of the Outstanding Bonds shall in writing so request the Trustee or the Company, the Trustee and the Company shall execute and deliver all instruments and agreements necessary or proper to appoint another bank or trust company or one or more persons, approved by the Trustee and the Company, either to act hereunder as co-trustee or co-trustees with respect to all or

any of the property subject to the lien of the Mortgage, jointly with the Trustee, or to act hereunder as separate trustee or trustees with respect to any such property, with such power and authority and for such term as may be necessary or prudent for such purpose and as shall be specified in the instrument of appointment. In the event the Company shall not have joined in the execution of such instruments and agreements within 30 days after the receipt of a written request so to do from the Trustee or from the holders of a majority in principal amount of the Outstanding Bonds, or in case an Event of Default shall have occurred and be continuing, the Trustee may act under the foregoing provision of this Section 14 without the concurrence of the Company; and the Company hereby fully empowers the Trustee so to act and appoints the Trustee, its agent and attorney to act for it under the foregoing provision of this Section 14 in either of such contingencies.

Section 15. The Trustee is hereby appointed (and the successive holders of the Bonds, by taking and holding the same, shall conclusively be deemed to have so appointed the Trustee) the true and lawful attorney-in-fact of the respective holders of the Bonds, with authority to make or file, irrespective of whether the Bonds or any of them are in default as to payment of principal or interest, in the respective names of the holders of the Bonds and coupons or in behalf of all holders of the Bonds and coupons as a class, any proof of debt, amendment to any proof of debt, petition or other document, and to execute any and all other papers and documents and do and perform any and all other acts and things for and in behalf of the respective holders of the Bonds and coupons, or in behalf of all holders of the Bonds and coupons as a class, as may be necessary or advisable in the opinion of the Trustee in order to have the claims of the holders of the Bonds and coupons against the Company, or any successor,

or any other person or corporation allowed and paid in any equity receivership, insolvency liquidation, bankruptcy, reorganization or other proceedings which shall involve the Company or the mortgaged property or any part thereof, and to receive payment of or on account of any such claim or claims; and any receiver, assignee or trustee in any such proceedings is hereby authorized by each of the Bondholders to make such payments to the Trustee. The appointment made and authority granted by this Section 15 may be revoked by any holder of Bonds or coupons with respect to Bonds or coupons held by him at any time after institution of any such proceeding, by delivering notice of such revocation to the Trustee and filing a copy thereof in such proceeding. Nothing herein contained shall give the Trustee authority to assent to or reject on behalf of any holder of Bonds and coupons any plan of reorganization, plan of adjustment, or similar plan, proposed or approved in any such proceeding.

ARTICLE XVI

Remedies of Trustee and Bondholders

Section 1. Except as provided in Section 3 of Article XIX, the Company will not, directly or indirectly, extend or assent to the extension of the time for the payment of any coupon or claim for interest on any of the Bonds, and it will not, directly or indirectly, be a party to or approve any such arrangement by purchasing or refunding said coupons or claims for interest or in any other manner; and if the time for payment of any such coupon or claim for interest shall be so extended with the consent of the Company, such coupon or claim for interest shall not be entitled, in case of default hereunder, to the benefit of the security of the Mortgage, except subject to the prior payment in full of the principal of all Outstanding Bonds and all coupons and claims for interest thereon the payment of which shall not have been so extended; provided, that the foregoing provisions of this Section 1 shall not be applicable to any coupon or claim for interest the time for the payment of which shall have been extended, if such extension was made pursuant to a plan proposed by the Company to all holders of any one or more series of Bonds. If, at or after the maturity of Bonds, any coupons or claims for interest in respect of such Bonds shall be owned by the Company, or shall be purchased by it or on its behalf, then such matured coupons or claims for interest shall not be entitled to the benefit or security of the Mortgage, and the Company covenants that all such matured coupons and claims for interest shall be cancelled promptly upon such maturity if then owned by the Company or upon their purchase if purchased by or on behalf of the Company at or after such maturity.

Section 2. If one or more of the following events, herein called Events of Default, shall occur, that is to say:

(a) Default shall be made in the payment of any installment of Contingent Interest on any of the Outstanding Bonds when and as such interest shall become due and payable as therein and in the Mortgage expressed and such default shall continue for 30 days; or

(b) Default shall be made in the payment of any installment of Fixed Interest on any of the Outstanding Bonds when and as such interest shall become due and such default shall continue for 90 days; or

(c) Default shall be made in the payment of the principal of any of the Outstanding Bonds, or the premium thereon payable on redemption thereof, when the same shall become due and payable either by the terms thereof or otherwise as herein provided; or

(d) Default shall be made in the payment of any installment of any sinking fund with respect to any Outstanding Bonds when and as the same shall become due and payable as therein and in the Mortgage expressed, and such default shall continue for 90 days; or

(e) Default shall be made in the observance or performance of any other of the covenants, conditions or agreements on the part of the Company, its successors or assigns, contained in the Bonds or in the Mortgage, and such default shall continue for 90 days (or in case of any default under a supplemental indenture for such other time, if any, as may be specified therein) after written notice specifying such default and requiring the same to be remedied shall have been given to the Company by the Trustee, which notice may be given by the Trustee in its discretion, and shall be given on the written request of the holders of 25% in principal amount of the then Outstanding Bonds; or

(f) A decree or order by a court having jurisdiction in the premises shall have been entered adjudging the Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization of the Company under the Bankruptcy Act or any other state or federal law, and such decree or order shall have continued

undischarged and unstayed for 60 days; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver or liquidator or trustee in bankruptcy or insolvency of the Company or of its property, or any substantial portion of its property, or for the winding up or liquidation of its affairs, shall have been entered, and such decree or order shall have remained in force undischarged and unstayed for 60 days; or

(g) The Company shall institute proceedings to be adjudged a voluntary bankrupt, or shall consent to the filing of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking reorganization or readjustment under the Bankruptcy Act or any other state or federal law, or otherwise invoke any law for the aid of debtors, or shall consent to the filing of any such petition, or shall consent to the appointment of a receiver or liquidator or trustee in bankruptcy or insolvency of it or of its property or any substantial portion of its property, or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or corporate action shall be taken by the Company in furtherance of any of the aforesaid purposes;

then, and in each and every such case, the Trustee personally or by its agents or attorneys, to the extent permitted by law, may, but shall not be obligated to, enter into and upon all or any part of the mortgaged property, and each and every part thereof, and may exclude the Company, its agents and servants wholly therefrom; and having and holding the same may use, operate, manage and control the mortgaged property or any part thereof, and conduct the business of the Company, either personally or by the Company's superintendents, managers, agents, servants, attorneys, receivers or trustees, in such manner as the Trustee may deem to be to the best advantage of the Bondholders. Upon every such entry the Trustee, at the expense of the mortgaged property,

from time to time, either by purchase, repair or construction, may maintain and restore the rolling stock, tools and machinery and other property, buildings, bridges and structures erected upon or provided for use in connection with the railways and other premises whereof they shall become possessed as aforesaid, and may insure or keep insured such of the same as are usually insured by railway companies and in the same manner and to the same extent; and likewise from time to time, at the expense of the mortgaged property, may make all necessary or proper repairs, renewals and replacements and useful alterations, additions, betterments and improvements to and on the mortgaged property, and purchase or otherwise secure the use of additional rolling stock, tools, machinery and other property for use thereon, as to them may seem judicious. The Trustee shall further have the right to manage the mortgaged property and to carry on the business and exercise all rights and powers of the Company with respect thereto, either in the name of the Company or otherwise, as the Trustee shall deem best; and shall be entitled to collect and receive all rates, fares, tolls, earnings, incomes, rents, issues, revenues and profits of the same and every part thereof, including the income from stock, bonds or other obligations subject to the Mortgage. After deducting the expenses of operating said railways and other premises, and of conducting the business thereof, and of all repairs, maintenance, renewals, replacements, alterations, additions, betterments and improvements, and all payments which may be made for insurance and for the payment of all taxes, assessments and other proper charges having liens on the mortgaged property, or any part thereof, prior to the lien of the Mortgage, as well as just and reasonable compensation for its own services and for the services of all attorneys, counsel, agents, clerks, servants and other employees by it properly engaged and employed, the Trustee shall apply the balance of the moneys derived from the operation and management of the mortgaged property and business as follows:

(i) If the principal of none of the Outstanding Bonds shall have become due and be unpaid, to the payment of the interest on the Outstanding Bonds, in the order of the maturity of the installments of such interest, such payments to be made proportionately to the persons entitled thereto without discrimination or preference.

(ii) If the principal of all or any part of the Bonds shall have become due, by declaration or otherwise, and shall be unpaid, *first* to the payment of interest accrued on the Outstanding Bonds prior to the date upon which the principal of said Bonds became due and payable, in the order of the maturity of the installments of such interest, and *second* to the payment of interest on the overdue principal of said Bonds at the highest rate of interest borne by any of the Outstanding Bonds, and *third* (subject to the provisions of Section 4 of this Article XVI) to the payment of the principal of all of said Bonds, whether due or not; in every instance such payments to be made proportionately to the persons entitled thereto without discrimination or preference.

These provisions, however, are not intended to and shall not be deemed in any wise to modify the provisions of Section 1 of this Article XVI but are subject thereto.

Section 3. If the Trustee, under the powers in the Mortgage granted, or a receiver or any trustee appointed under the provisions of the Bankruptcy Act, or any other state or federal law, shall have entered into possession of the mortgaged property, or a part thereof, or one or more Events of Default shall have occurred and be continuing, the Trustee (to the extent permitted by law) shall be entitled to exercise, while such default shall continue, all right and power to vote and consent with respect to all shares of stock, bonds and other obligations subject to the lien of the Mortgage, and, for the benefit of the Bondholders, shall be entitled to collect and receive all dividends on all shares of stock and all sums payable for principal, interest or otherwise upon any bonds

or other obligations that shall then be subject to the Mortgage and shall apply, as hereinbefore in Section 2 of this Article XVI provided, any moneys so received; and, as the holder of any such shares of stock, bonds or other obligations, shall be entitled to perform any and all acts, or to make and execute any and all transfers, requests, requisitions or other instruments, for the purpose of carrying out the provisions of this Section 3.

Section 4. In case one or more Events of Default shall have occurred and be continuing, then, in each and every such case, unless the principal of all the Outstanding Bonds already shall have become due and payable, the Trustee may, and upon the written request of the holders of 25% in principal amount of the Outstanding Bonds shall, by notice in writing mailed to the Company, declare the principal of all Bonds to be forthwith due and payable, and upon any such declaration the same shall become and be forthwith due and payable, together with all accumulations of unpaid interest, if any, notwithstanding the date of maturity thereof, as stated in such Bonds or in the coupons, if any, pertaining thereto, or in the Mortgage. This provision, however, is subject to the condition that, if at any time after the principal of the Bonds shall have been so declared due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided or any sale of the mortgaged property or any part thereof shall have been made, all unpaid interest upon all Outstanding Bonds, and the principal (and premium, if any) of any Outstanding Bonds which shall have become due otherwise than by acceleration under this Section 4, and the reasonable charges and expenses of the Trustee, its agents and attorneys, shall either be paid by the Company or be collected out of the income of the mortgaged property, or be provided for by the deposit with the Trustee

of a sum sufficient to pay the same, and all other defaults made good to the satisfaction of the Trustee, then and in every such case the holders of two-thirds in principal amount of the Outstanding Bonds, by written notice to the Company and to the Trustee, may waive such default or defaults and its or their consequences and annul such declaration of the maturity of the Bonds, but no such waiver or annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

In case the Trustee shall have proceeded to enforce any right under the Mortgage, by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned because of such waiver or annulment, or for any other reason, or shall have been determined adversely to the Trustee, then and in every such case the Company and the Trustee shall be restored to their former position and rights hereunder in respect of the mortgaged property, and all rights, remedies and powers of the Company and of the Trustee shall continue thereafter as though no such proceedings had been taken.

Section 5. In case one or more Events of Default shall have occurred and be continuing, the Trustee, with or without entry, personally or by attorney, in its discretion:

(a) If and to the extent permitted by law, may but shall not be obligated to sell, subject to any prior liens thereon, to the highest bidder, all and singular the mortgaged property, and all right, title and interest, claim and demand therein, free from any right of redemption thereof, in one parcel and as an entirety, except as in Section 6 of this Article XVI provided; which sale or sales shall be made at public auction at such place in the City of Marquette, State of Michigan, or at such other place or places, and at such time and upon such terms, as the Trustee may fix and briefly specify in the notice of sale to be given as hereinafter in Section 7 of this Article XVI provided; or

(b) May proceed to protect and to enforce their rights and the rights of holders of the Outstanding Bonds by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or for the foreclosure of the Mortgage, or for the enforcement of any other appropriate legal or equitable remedy, as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce any of their rights or duties and the rights of holders of the Outstanding Bonds.

Upon the written request of the holders of not less than 25% in principal amount of the then Outstanding Bonds, in case any Event of Default shall have occurred and be continuing as aforesaid, it shall be the duty of the Trustee, upon being indemnified as hereinafter provided, to exercise such one or more of the remedies available for the protection and enforcement of their rights and the rights of the Bondholders (including the exercise of the powers of entry or sale herein conferred, or the taking of appropriate judicial proceedings by action, suit or otherwise) as the Trustee, being advised by counsel, shall deem most expedient in the interest of the Bondholders.

Section 6. In the event of any sale, whether made under the power of sale herein granted or conferred, or under or by virtue of judicial proceedings, or of some judgment or decree of foreclosure and sale, the whole of the mortgaged property shall be sold in one parcel and as an entirety, unless such sale as an entirety is impracticable in the opinion of the Trustee by reason of some statute or other circumstance, or unless the holders of a majority in principal amount of the Outstanding Bonds shall in writing request the Trustee to cause said premises to be sold in parcels, in which case the sale shall be made in such parcels and in such order as may be specified in such request.

The Company, for itself and all persons and corporations hereafter claiming through or under it, or who may at any time hereafter become holders of liens junior to the lien of the Mortgage, hereby expressly waives and releases all right to have the mortgaged property marshalled upon any foreclosure or other enforcement hereof, and the Trustee or any court in which the foreclosure of the Mortgage or the administration of the trusts hereby created is sought shall have the right as aforesaid to sell the entire property of every description comprised in the mortgaged property, as a whole in a single lot or parcel.

Section 7. Notice of any sale pursuant to any provision of the Mortgage shall state the time and place of said sale, and shall contain a brief general description of the property to be sold, and shall be sufficiently given if published once in each week for four successive weeks prior to such sale in a Daily Newspaper in the City of Marquette, State of Michigan, and in a Daily Newspaper in the Borough of Manhattan, City and State of New York, and in such other manner as may be required by law.

Section 8. The Trustee may adjourn from time to time any sale to be made by it under the provisions of the Mortgage, by announcement at the time and place appointed for such sale, or for such adjourned sale or sales, and without further notice or publication (unless otherwise required by law) such sale may be made at any time or place to which the same shall be so adjourned.

Section 9. Upon the completion of any sale or sales under the Mortgage, the Trustee or the court officer conducting the sale shall execute and deliver to the accepted purchaser or purchasers a good and sufficient bill or bills of sale and deed or deeds of conveyance of the property and franchises sold.

The Trustee and its successors are hereby irrevocably appointed the true and lawful attorneys of the Company, in its name and stead to make all necessary deeds, bills of sale and conveyances of the property and franchises and all necessary transfers of shares of stock or bonds or other obligations thus sold; and may substitute one or more persons with like power, the Company hereby ratifying and confirming all that its said attorney or attorneys, or such substitute or substitutes, shall lawfully do by virtue hereof. Nevertheless, the Company, if so requested by the Trustee, shall ratify such sale by executing and delivering such deeds of conveyance, bills of sale or other instruments of assignment and transfer, as in the judgment of the Trustee may be advisable.

Any such sale or sales made under or by virtue of the Mortgage, whether under the power of sale hereby granted and conferred, or under or by virtue of any judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Company, of, in and to the premises and property sold, and shall be a perpetual bar, both at law and in equity, against the Company, its successors and assigns, and against any and all persons claiming the premises and property sold, or any part thereof, from, through or under the Company, its successors or assigns.

The personal property and chattels conveyed, or intended to be conveyed, by or pursuant to the Mortgage, other than stocks and bonds and other obligations or securities or claims, shall be real property for all the purposes of the Mortgage, and shall be held and taken to be fixtures and appurtenances of the Company's lines of railroad and a part thereof, and are to be used and sold therewith and not separate therefrom, except as herein otherwise provided.

The receipt of the Trustee for the purchase money paid at any such sale, or the receipt of any other person author-

respect of which such moneys shall have been collected, without any preference or priority of any kind, but subject to the provisions of Section 1 of this Article XVI, proportionately according to the amounts due and payable upon such Outstanding Bonds and coupons, respectively, at the date fixed by the Trustee for distribution of such moneys, upon presentation of the several Outstanding Bonds and coupons and their surrender if fully paid, or for proper stamping if only partially paid.

SECTION 14. The Company will not at any time insist upon or plead, or claim to take advantage of any statute or rule of law, now or hereafter in force, wherever enacted or established, in aid of debtors or permitting or providing for (a) the staying of actions in respect of mortgages or mortgage indebtedness, or for extending the time for payment of such indebtedness, (b) the valuation or appraisement of the property held under any mortgage or pledge to secure indebtedness prior to any sale or sales thereof pursuant to the terms of such mortgage or pledge or to the decree, judgment or order of any court, or (c) the redemption of any property so sold; and the Company hereby expressly waives all benefit and advantage of any such statute or rule of law, and covenants that it will not hinder, delay or impede the execution of any power herein granted or delegated to the Trustee, but that it will suffer and permit the execution of every such power as though no such statute or rule of law had been enacted or established.

SECTION 15. In case (1) an Event of Default shall occur and at any time during the continuance of such Event of Default there shall be any unsatisfied final judgment against the Company, or a receiver or trustee of the Company or of its property or any part thereof shall be appointed in any judicial proceeding instituted by any party other than the Trustee, or a judgment or order shall be entered for the sequestration of

its property or any part thereof, or (2) the Company shall make default in the payment of interest specified in clauses (a) or (b) of Section 2 of this Article XVI, and shall by resolution of its Board of Directors admit to the Trustee its inability to make good such default, then the Trustee, in either such case, shall thereupon be entitled, in the discretion of the Trustee, forthwith to exercise the right of entry herein conferred and also any and all other rights and powers herein conferred and provided to be exercised by the Trustee upon the occurrence and continuance of an Event of Default as hereinbefore provided; and the Trustee shall thereupon be entitled as a matter of right (i) to the appointment of a receiver of the mortgaged property and of the earnings, rents, issues, profits, tolls, revenues and income thereof, with such powers as the court making such appointment shall confer, and (ii) to the entry of an order directing that the rents, issues, profits, tolls, revenues and other income of the premises and property comprised in the mortgaged property be segregated, sequestered and impounded for the benefit of the Trustee and the Bondholders from and after the date of the institution of any judicial proceedings of the nature referred to in this Section 15 or in clauses (f) and (g) of Section 2 of this Article XVI. Notwithstanding the appointment of any such receiver, the Trustee, as pledgee, shall be entitled to retain possession and control of, and to collect all interest and dividends or earnings on, any shares of stock, cash, bonds and other obligations pledged with it as security hereunder.

The Company hereby irrevocably consents to the appointment of such receiver and to the entry of such order.

SECTION 16. Upon application of the Trustee to any court of competent jurisdiction, and with the consent of the Company if none of the Events of Default shall have occurred and be continuing, and without such consent if one or more

of the Events of Default shall have occurred and be continuing, a receiver may be appointed to take possession of, and to operate, maintain and manage the mortgaged property or any part thereof, and any other property of the Company used for, in or about, or the use or possession whereof shall be essential to, the operation of the mortgaged railroads or any thereof, and the Company shall transfer and deliver to such receiver all such property, wheresoever the same may be situated; and in every case when a receiver of the whole or of any part of said property shall be appointed under this Section 16, or otherwise, the net income and profits of the mortgaged property shall be paid over to, and shall be received by, the Trustee for the benefit of the holders of the Outstanding Bonds and coupons to be applied as provided in Section 2 of this Article XVI; provided, however, that, notwithstanding the appointment of any such receiver, the Trustee shall be entitled to retain control of, and to collect all interest and dividends or earnings on, any shares of stock, cash, bonds and other obligations pledged with it as security hereunder.

SECTION 17. No holder of any Bond or coupon shall have any right to institute any suit, action or proceeding in equity or at law for the foreclosure of the Mortgage, or for the execution of any trust hereunder, including the appointment of a receiver, or for any other remedy hereunder, unless (a) such holder previously shall have delivered to the Trustee written notice that one or more Events of Default, which default or defaults shall be specified in such notice, has occurred and is continuing, and (b) the holders of not less than 25% in principal amount of the then Outstanding Bonds shall have requested the Trustee in writing and shall have afforded to it reasonable opportunity either to proceed to exercise the powers hereinbefore granted, or to institute such action,

suit or proceeding in its own name, and (c) one or more holders of Bonds shall have offered to the Trustee adequate security and indemnity, satisfactory to it, against the costs, expenses and liabilities to be incurred therein or thereby, nor unless the Trustee shall have refused or neglected to act on such notification, request and offer of indemnity for at least 30 days; and such notification, request and offer of indemnity are hereby declared, in every such case, at the option of the Trustee, to be conditions precedent to the exercise of the powers and trusts of the Mortgage and to any action or cause of action for foreclosure, including the appointment of a receiver or trustee, or for any other remedy hereunder; it being understood and intended that no holder of any Bond or coupon shall have any right in any manner whatsoever by his action to affect, disturb or prejudice the lien of the Mortgage or to enforce any right hereunder, except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had or maintained in the manner herein provided, and for the equal benefit of all holders of the Outstanding Bonds and coupons.

Nothing contained in this Section 17 or elsewhere in the Mortgage or in the Bonds or in the coupons shall affect or impair the obligation of the Company to pay the principal of, premium if any, and interest on the Bonds to the respective holders of the Bonds and to the respective holders of the coupons, as provided in such Bonds, nor affect or impair the right of action at law, which is also absolute and unconditional, of such holders to collect such payment.

SECTION 18. Except as herein expressly provided to the contrary, no remedy herein conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy or remedies, but each and every such remedy shall be cumulative, and shall be in addition to every other

remedy given hereunder, or now or hereafter existing at law or in equity.

SECTION 19. No delay of the Trustee or of any Bondholder in exercising any right or power accruing upon any default continuing as aforesaid and no omission to exercise any such right or power shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by this Article XVI to the Trustee, or to any Bondholder, may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by such Bondholder, respectively.

SECTION 20. The Trustee shall have power, but shall be under no duty, to institute and maintain suits or proceedings to restrain the enforcement of, or compliance with, or the observance of, any legislative or governmental enactment, rule or order that it may be advised and believe is unconstitutional, or otherwise invalid, if the enforcement of, or compliance with, or observance of, such enactment, rule or order would, in the judgment of the Trustee, impair the security hereunder or be prejudicial to the Trustee or to the Bondholders.

SECTION 21. The holders of a majority in aggregate principal amount of the Outstanding Bonds shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or the exercise or non-exercise of any trust or power conferred on the Trustee. Except as provided in Section 4 of this Article XVI, the holders of a majority in aggregate principal amount of the Outstanding Bonds may on behalf of the holders of all the Bonds waive any past default hereunder and its consequences other than an Event of Default specified in clauses

(a), (b), (c) or (d) of Section 2 of this Article XVI. In the case of any such waiver, the Company, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

SECTION 22. All parties to the Mortgage agree, and each holder of any Bond by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Mortgage, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 22 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Bondholder or group of Bondholders holding more than 10% in aggregate principal amount of the Outstanding Bonds, or to any suit instituted by any Bondholder for the enforcement of the payment of the principal of or interest on any Bond, on or after the due date expressed in such Bond.

SECTION 23. To the extent that any provision of this Article XVI may be invalid or unenforceable under any applicable law with respect to any of the mortgaged property, such provision shall be deemed inoperative and inapplicable.

ARTICLE XVII

IMMUNITY OF INCORPORATORS, STOCKHOLDERS, DIRECTORS AND OFFICERS

The Mortgage and the Bonds and coupons are solely corporate obligations. No recourse shall be had for the payment of the principal of, premium if any, or interest on any Bond, or for any claim based thereon or on any coupon appurtenant thereto, or because of the creation of the indebtedness represented thereby, or otherwise in respect thereof, or based on or in respect of the Mortgage, against any past, present or future incorporator, stockholder, officer or director of the Company, as such, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability, except for fraud or wilful misconduct, by the acceptance of such Bond and as part of the consideration for the issuance thereof, being expressly waived and released.

ARTICLE XVIII

DEFEASANCE

SECTION 1. If (a) the Company shall deliver to the Trustee for cancellation all Bonds and appurtenant coupons not theretofore cancelled and delivered to the Trustee, or (b) all Bonds not theretofore delivered to the Trustee cancelled or for cancellation shall have become due and payable, or are by their terms to become due and payable within one year or are to be redeemed within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption, and the Company shall deposit with the Trustee as trust funds an amount sufficient to pay at maturity or upon redemption all of the Bonds not theretofore delivered to the Trustee cancelled or for cancellation, including the principal thereof, premium if any, and the full amount of unpaid interest which has or will become due to such date of maturity or redemption, as the case may be, and if in either case the Company shall also pay or cause to be paid all other sums payable hereunder by the Company, then the Mortgage shall cease to be of further effect. In such event the Trustee, on demand of the Company and at its cost and expense, shall execute and deliver to the Company such instrument or instruments as may be appropriate to acknowledge satisfaction of the Mortgage, and as will enable the Company to have the Mortgage discharged of record, and shall release and assign, or cause to be released and assigned, to the Company all of its interest in the mortgaged property, and shall deliver to the Company or upon its order all securities and moneys then held by the Trustee under the provisions hereof other than the money deposited as above provided in this Article XVIII.

The Company, notwithstanding the satisfaction of the Mortgage as above provided, will indemnify the Trustee and hold it harmless against any and all expense or liability, incurred without negligence or bad faith, ascertained or incurred by the Trustee after the satisfaction thereof arising

out of or based upon any matter connected with the trust created by the Mortgage.

SECTION 2. All moneys deposited with the Trustee pursuant to Section 1 of this Article XVIII shall be held in trust and applied by it, subject to the provisions of Section 4 of this Article XVIII, to the payment to the holders of the Bonds and coupons of all sums due and to become due thereon for principal and interest and premium, if any.

SECTION 3. Upon the satisfaction and discharge of the Mortgage, all moneys then held by any paying agent under any provision of the Mortgage shall be paid to the Trustee, and thereupon such paying agent shall be released from all further liability with respect to such moneys.

SECTION 4. Any moneys deposited by the Company with the Trustee or with any paying agent for the payment of the principal of, or the premium or interest on, any Bond which shall remain unclaimed by the holder of the Bond or coupon entitled to receive the same for 6 years after the date upon which the principal of such Bond shall have become due and payable (upon redemption or otherwise) shall be repaid to the Company on demand; and the holder of any Bond or coupon entitled to receive such payment shall thereafter look only to the Company for the payment thereof; provided, however, that (a) before any such repayment may be made, the Trustee, at the expense of the Company, shall cause to be published once a week for two successive calendar weeks (in each case on any day of the week) in a Daily Newspaper in the Borough of Manhattan, City and State of New York, a notice that said moneys have not been claimed and that after a date named therein any balance of said moneys then remaining will be returned to the Company, and (b) the amount of such repayment shall be limited to the balance of such moneys unclaimed at the close of business on such date.

ARTICLE XIX

SUPPLEMENTAL INDENTURES

SECTION 1. The Company, when authorized by a resolution of its Board of Directors, and the Trustee may at any time and from time to time enter into an indenture or indentures supplemental hereto for one or more of the following purposes:

(a) To convey, transfer and assign to the Trustee and subject to the lien of the Mortgage, with the same force and effect as though included in the granting clauses hereof, additional property then owned by the Company, acquired through consolidation, merger, purchase or otherwise;

(b) To evidence the succession of another corporation to the Company, or successive successions, and the assumption by the successor corporation of the covenants, agreements and obligations of the Company pursuant to Article XII;

(c) To set forth the terms and provisions of any series of Bonds to be issued hereunder and the form of the Bonds and coupons of such series;

(d) To add to the covenants of the Company such further covenants for the protection of the mortgaged property and the Bondholders as the Board of Directors and the Trustee shall consider to be for the protection of the Bondholders, and to make the occurrence and continuance of a default under any of such additional covenants a default permitting the enforcement of all or any of the several remedies provided in the Mortgage; provided, however, that in respect of any such additional covenant, such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement of said remedy or remedies upon such default or may limit the remedies available to the Trustee upon such default or may authorize the holders

of not less than a majority in aggregate principal amount of the Outstanding Bonds to waive such default and prescribe limitations on such rights of waiver; and

(e) To cure any ambiguity or to correct or supplement any provision contained in the Mortgage which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make such other provisions in regard to matters or questions arising under the Mortgage as shall not be inconsistent with the provisions of the Mortgage and shall not adversely affect the interest of the Bondholders.

The Trustee is hereby authorized to join with the Company in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer and assignment of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which, in its opinion, affects the Trustee's own rights, duties or immunities under the Mortgage or otherwise.

Any supplemental indenture authorized by the provisions of this Section 1 may be executed by the Company and the Trustee without the consent of the holders of any of the then Outstanding Bonds, notwithstanding any of the provisions of Section 2 of this Article XIX.

SECTION 2. With the consent (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 66⅔% in aggregate principal amount of the then Outstanding Bonds to be directly affected thereby, and of the holders of not less than 66⅔% in aggregate principal amount of such of said Bonds as are then Publicly Held, the Company, when authorized by a resolution of its Board of Directors, and the Trustee, at any time and from time to time, by entering into an indenture or indentures supplemental hereto, may modify (with the approval of the Interstate Commerce Commission or

other public regulatory body having jurisdiction in the premises) the sinking fund provisions of the Mortgage, or may modify or alter in any manner any of the other provisions of the Mortgage or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Company, except as provided in Section 3 of this Article XIX; provided, however, that no such modification or alteration shall, without the consent of the holders of all Bonds affected thereby:

(i) alter or impair the obligation of the Company to pay the principal amount or the interest specified in any Bonds at the places and in the manner specified therein or in any interest coupon appertaining thereto; or

(ii) permit the creation by the Company of any mortgage or other lien in the nature of a mortgage ranking prior to or on a parity with the lien of the Mortgage with respect to any property covered thereby except as in the Mortgage otherwise expressly provided; or

(iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds; or

(iv) alter or impair the obligation of the Company with respect to the determination and application of Available Net Income applicable to the payment of interest specified in any Bonds, except as provided in Section 1 of Article XII;

and provided, further, that no such modification or alteration shall affect the rights, duties or immunities of the Trustee without the written consent of the Trustee.

It shall not be necessary for the consent of the Bondholders under this Section 2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

SECTION 3. With the consent (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 75%

in aggregate principal amount of all of the then Outstanding Bonds, and of the holders of not less than 75% in aggregate principal amount of such of said Bonds as are then Publicly Held and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time by entering into an indenture or indentures supplemental hereto, may postpone the time or times of payment of the principal of any or all series of Bonds then outstanding, whether before or after the maturity thereof, to any fixed or determinable date, not exceeding 20 years beyond the original date of maturity of the principal amount thereof, or the time or times of payment of any Fixed Interest or any unpaid accumulations of Contingent Interest on the Bonds of any or all series then outstanding, whether before or after such Interest is due, to any fixed or determinable date not later than five years after such interest first becomes payable and not beyond the original or any duly postponed date of maturity of the principal of such Bonds.

Section 4. Upon the request of the Company, accompanied by a Certified Resolution authorizing the execution of any supplemental indenture pursuant to Sections 2 or 3 of this Article XIX, and upon the filing with the Trustee of evidence of the consent of Bondholders as aforesaid, the Trustee shall join with the Company in the execution of such supplemental indenture.

Section 5. Upon the execution of any supplemental indenture pursuant to the provisions of this Article XIX, the Mortgage shall be and be deemed to be modified and amended in accordance therewith and the respective rights, duties and obligations under the Mortgage of the Company, the Trustee and the holders of Bonds of all series outstanding thereunder shall thereafter be determined, exercised and enforced here-

under subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of the Mortgage for any and all purposes.

Section 6. Bonds authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article XIX may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company or the Trustee shall so determine, new Bonds so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any modification of the Mortgage contained in any such supplemental indenture may be prepared by the Company, authenticated by the Trustee and delivered without expense to the holders of Bonds of the same series then outstanding, upon surrender of such Bonds accompanied, in the case of coupon Bonds, by all unmatured coupons and all unpaid matured coupons which shall be appurtenant thereto, the new Bonds so issued to be of the same series and of an aggregate principal amount equal to the aggregate principal amount of those so surrendered.

ARTICLE XX

Miscellaneous

Section 1. The same officer or officers of the Company, or the same engineer, accountant or counsel or other person, as the case may be, need not certify to all the matters required to be certified under the provisions of any Article or Section of the Mortgage, but different officers, engineers, accountants, counsel or other persons may certify to different matters respectively.

Section 2. Each Officers' Certificate or Opinion of Counsel required to be given responsive to a specified condition or covenant provided for in the Mortgage shall include: (i) a statement that the person making such certificate or giving such opinion has read such covenant or condition; (ii) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (iii) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

Section 3. Except as otherwise expressly provided herein, nothing in the Mortgage or in any of the Bonds or coupons, express or implied, is intended or shall be construed to confer upon or give to any person, firm or corporation other than the parties hereto and the holders from time to time of the Bonds or coupons issued under the Mortgage any security, right, remedy or claim, legal or equitable, under or by reason of the Mortgage, or under or by reason of any covenant, condition or stipulation herein contained; and the Mortgage and all covenants, conditions and provisions herein contained are and shall be held to be for the sole and exclusive

benefit of the parties hereto and the holders from time to time of the Bonds and coupons issued hereunder.

Section 4. The Mortgage may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

Section 5. The Mortgage shall be effective by order of the Court in the reorganization proceedings hereinbefore mentioned as of 12:01 A. M., Central Standard Time, on November 1, 1949, although executed and delivered on the date of the acknowledgment hereof by the Trustee.

In Witness Whereof, Duluth, South Shore and Atlantic Railroad Company, the party of the first part, has caused the Mortgage to be signed and acknowledged by its President or one of its Vice Presidents, and its corporate seal to be affixed hereto, and the same to be attested by its Secretary or its Assistant Secretary, and Central Hanover Bank and Trust Company, the party of the second part, to evidence its acceptance of the trust hereby created, has caused the Mortgage to be signed and acknowledged by one of its Vice Presidents and its corporate seal to be affixed hereto and the same to be attested by one of its Assistant Secretaries.

Executed and delivered in the Borough of Manhattan, City and State of New York, as of the first day of January, 1949.

DULUTH, SOUTH SHORE AND ATLANTIC RAILROAD COMPANY

By HENRY S. MITCHELL
President

(SEAL) Attest:

J. C. PETERSON
Secretary

In the presence of

F. WALTER

C. W. ANDERSON

CENTRAL HANOVER BANK AND TRUST COMPANY

By J. T. HARRIGAN
Vice President

(SEAL) Attest:

F. E. EGLY
Assistant Secretary

In the presence of

F. WALTER

C. W. ANDERSON

STATE OF NEW YORK
COUNTY OF NEW YORK } ss.

On this 7th day of November, 1949, before me personally appeared HENRY S. MITCHELL and J. C. PETERSON, to me personally known and to me known to be the president and the secretary, respectively, of Duluth, South Shore and Atlantic Railroad Company, a corporation of the State of Minnesota, and the persons who executed the foregoing instrument, who, being by me duly sworn, did say: that they are the president and the secretary, respectively, of said corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that they executed the foregoing instrument as such officers, and said instrument was signed and sealed, on behalf of said corporation by its authority and the authority of its board of directors, and said HENRY S. MITCHELL and J. C. PETERSON acknowledged the execution of the foregoing instrument, by them as such officers, as the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal in the county and state aforesaid this 7th day of November, 1949.

THOMAS F. MEAGHER (SEAL)
Thomas F. Meagher
Notary Public of State of N.Y.
Residing in Queens County
Queens Co. Clk's No. 1824, Reg. No. 48-M-C
Cert. filed N.Y. Co. Clk's No. 202, Reg. No. 322-M-C
Commission Expires March 30, 1950

My commission expires

STATE OF NEW YORK
COUNTY OF NEW YORK } ss.

On this 7th day of November, 1949, before me personally appeared J. T. HARRIGAN and F. E. EGLY, to me personally known and to me known to be a vice president and an assistant secretary, respectively, of Central Hanover Bank and Trust Company, a corporation of the State of New York, and the persons who executed the foregoing instrument, who, being by me duly sworn, did say: that they are a vice president and an assistant secretary, respectively, of said corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that they executed the foregoing instrument as such officers, and said instrument was signed and sealed, on behalf of said corporation by its authority and the authority of its board of trustees. And said J. T. HARRIGAN and F. E. EGLY acknowledged the execution of the foregoing instrument, by them as such officers, as the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal in the county and state aforesaid this ..... day of November, 1949.

(SEAL) THOMAS F. MEAGHER
Thomas F. Meagher
Notary Public of State of N.Y.
Residing in Queens County
Queens Co. Clk's No. 1824, Reg. No. 48-M-C
Cert. filed N.Y. Co. Clk's No. 202, Reg. No. 322-M-C
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STATE OF NEW YORK
COUNTY OF NEW YORK } ss.

HENRY S. MITCHELL, being first duly sworn, deposes and says that he is president of Duluth, South Shore and Atlantic Railroad Company, a corporation organized and existing under the laws of the State of Minnesota, which executed as mortgagor the Indenture of Mortgage and Deed of Trust to which this affidavit is appended, that the consideration of said mortgage was actual and adequate, that the same was given in good faith for the purposes set forth in said mortgage, and that Central Hanover Bank and Trust Company, the trustee and mortgagee named in said mortgage, has delivered to said Railroad Company, and said Railroad Company has received, a duplicate copy of said mortgage as executed.

HENRY S. MITCHELL

Subscribed and sworn to before me this 7th day of November, 1949. (SEAL)

THOMAS F. MEAGHER
Thomas F. Meagher
Notary Public of State of N.Y.
Residing in Queens County
Queens Co. Clk's No. 1824, Reg. No. 48-M-C
Cert. filed N.Y. Co. Clk's No. 202, Reg. No. 322-M-C
Commission Expires March 30, 1950

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 18TH day of NOVEMBER A. D. 1949 at 10:00 o'clock A.M. and recorded in Vol. 43 of RAILROAD MORTGAGES on page 127-226 incl.
Robert C. Zimmerman
Assistant Secretary of State

LEASE

THIS INDENTURE, made and entered into this 28th day of November A.D. 1949, by and between CHICAGO AND NORTH WESTERN RAILWAY COMPANY, a Wisconsin corporation, (hereinafter called "Lessor"), and MERRILL TUBES COMPANY of Waukesha, Wisconsin (hereinafter called "Lessee").

WITNESSETH:

That the Lessor, for and in consideration of the covenants and agreements hereinafter mentioned and contained, to be kept and performed by the Lessee, does hereby demise, lease and let unto the Lessee the following described land (hereinafter called "Premises"), situated at Waukesha, in the County of Waukesha and State of Wisconsin, and more particularly described as follows:

16719

Beginning at the Northeast corner of Lot A-7 in Cutler and Dunlap's Addition. Thence Westerly along the Northerly line of said Lot, One Hundred Fifty-seven and Twenty-nine (157.4) feet to corner in Lessee's right-of-way boundary. Thence Southerly along Lessee's right-of-way Six (6) feet. Thence Westerly along Lessee's right-of-way Thirteen and eleven-tenths (13.6) feet. Thence Southerly parallel to a preceding Six (6) feet course Sixteen (16) feet, more or less, to point which is Nine and Five-tenths (9.5) feet Southerly at right angles from the centerline of Lessee's Track No. 2A. Thence Westerly parallel with said line and Five-tenths (9.5) feet distant from said centerline of track, One Hundred Seventy-two (172) feet, more or less, to point on the Westerly line of Lot A-6 in aforesaid Addition. Thence Southerly along said Westerly line of Lot A-6, Thirty-seven (37) feet, more or less, to point of beginning.
Containing three thousand Ninety (3,090) square feet, more or less, as shown in yellow on print attached and made a part hereof.
Being part and parcel of Lessee's Station Grounds.

for and during a term of Eight (8) years from and after the first (1st) day of November A.D., 1949, unless sooner terminated as hereinafter provided, subject to the following covenants and agreements, each of which is

a condition hereof.

SECTION 1

The Lessee covenants and agrees to pay the Lessor as annual rent for said premises, the sum of Twenty-five Dollars ($25.00), payable annually in advance. The Lessee covenants and agrees to pay the Lessor annually, as additional rent, a sum equal to six per cent (6%) of the amount of special assessments, if any, levied or assessed against said premises.

SECTION 2

In addition to payment of the rent, the Lessee covenants and agrees to pay all taxes levied or assessed against said premises and all taxes and all special assessments levied or assessed against the improvements, buildings or other property located, erected or placed on said premises during the term of this lease and any renewal or extension thereof.

SECTION 3

The Lessee shall have the right to use and occupy said premises exclusively as a site for a Machinery Building and Storage Space, and the Lessee covenants and agrees to handle on said premises only such articles as are appropriate to the business to be conducted thereon.

SECTION 4

It is understood and agreed that all installations and buildings, including appurtenances thereto and all fixtures, machinery and equipment, and all substitutions and additions thereto placed on the premises and owned by the Lessee shall be considered as personal property of the Lessee.

SECTION 5

The Lessee covenants and agrees that it will at all times keep

said premises cleaned up and all buildings and other structures thereon in good condition and repair including the painting thereof, in a manner satisfactory to the Division Superintendent of the Lessor; that it will comply with all laws, ordinances and regulations with respect to its business conducted on said premises and with respect to its use and occupation of said premises; that it will not place or permit to be placed or to remain any billposters or advertising matter of any kind except that pertaining to Lessee's business on said premises; that it will not place, use or permit to be placed or to remain any door in the side of any building on said premises next to any track or tracks which is not a sliding door; that no buildings, structures, platforms or obstructions of any kind or character shall be erected, placed or permitted to remain nearer than eight and one-half (8½) feet on straight track or nine (9) feet on curved track less than ten (10) degrees, or nine and one-half (9½) feet on curved track of ten (10) degrees or over, laterally of the center line, or within twenty-two (22) feet vertically from the top of the rail of the nearest railroad track.

SECTION 6

The Lessee agrees that artificial lighting in any buildings or other enclosures on said premises where oil or other inflammable fluid supplies are handled or stored except when in unbroken original containers shall be by electricity and such electrical installation and any other electrical installation on said premises shall conform to and be maintained in accordance with the provisions of the current edition of the NATIONAL ELECTRIC CODE WITH RESPECT TO CLASS 1 HAZARDOUS LOCATIONS and also in accordance with requirements of any local ordinance or State or Federal laws which may be in effect during the term of this lease.

SECTION 7

The Lessee accepts said premises subject to the rights of any person, firm or corporation, including the Lessor, in and to any and all

existing telephone, telegraph and other wires, poles and facilities of any kind whatsoever and should it, at any time, become necessary to relocate any of said wires, poles or facilities by reason of this lease, the Lessee shall bear and pay the cost of so doing.

SECTION 8

(a) It is understood by the parties that the leased premises are in dangerous proximity to the tracks of the Lessor and that persons and property on the leased premises will be in danger of injury or destruction by fire or other causes incident to the operation of a railway and the Lessee accepts this lease subject to such dangers. It is, therefore, agreed as one of the material considerations of this lease, without which the same would not be granted, that the Lessee assumes all risk of personal injury to the Lessee and to the officers, agents, employes, or customers of the Lessee while on said premises, and all risk of loss, damage, or destruction to buildings or contents or to any other property brought upon the leased premises by the Lessee, or any other person with the consent or knowledge of the Lessee, regardless whether such loss be occasioned by fire or sparks from locomotives or other causes incident to or arising from the movement of locomotives, trains, or cars, misplaced switches, or in any respect from the operation of a railway, or whether such loss or damage be the result of negligence or misconduct of any person in the employ or service of the Lessor, or of defective appliances, engines or machinery; and the Lessee shall save and hold harmless the Lessor from and against any and all claims, demands, suits, liability, cost and expense growing out of any such injuries, losses, damage or destruction.

(b) The Lessee agrees to indemnify and hold harmless the Lessor from any and all claims, demands, suits, liability, cost and expense by reason of loss, damage or injury, arising or growing directly or indirectly, wholly or in part, out of or in connection with any act or omission of the Lessee, its officers, agents or employes to the person or property of the

parties hereto, their officers, agents or employes or to the person or property of any other person, firm, or corporation while on or about said premises, or in or about any building thereon.

(c) The Lessee agrees that if in any case the release and indemnity provided in this Section 8 shall not be valid, the Lessor shall in such case have the full benefit of any insurance effected or held by the Lessee or for its benefit, upon the property injured, destroyed or damaged and against the hazard involved; and the Lessee agrees that any and all such insurance shall be so written that the insurer shall have no claim or recourse of any kind whatsoever against the Lessor in connection therewith.

(d) The Lessee agrees to release, indemnify and hold harmless the Lessor from all liability for damages sustained by the Lessee by reason of want or failure at any time of title on the part of the Lessor to all or any part of said premises.

SECTION 9

The Lessee covenants and agrees to pay promptly the rent for said premises as above provided and fully to abide by and perform all and singular the conditions, covenants and agreements herein contained and to be observed and performed by said Lessee and to yield up said premises unto the said Lessor at the expiration or termination of this lease in as good condition as when entered upon.

SECTION 10

It is agreed that if, in the opinion of the Lessor, the leased premises are required for railroad purposes, the Lessor may terminate this lease at any time by giving the Lessee written notice thereof at least Sixty (60) days in advance of the effective date of termination. It is agreed that the Lessee, with the written consent of any assignee hereof, may terminate this lease at any time by giving Lessor written notice thereof

at least Sixty (60) days in advance of the effective date of termination.

SECTION 11

It is agreed that Lessor shall have the right to terminate this lease at any time if the Lessee shall breach or be in default in its performance of any of the conditions, covenants or agreements of this lease. The Lessor shall give the Lessee written notice specifying the breach or default on the part of the Lessee and if such default or breach shall continue for a period of Sixty (60) days from the date of said notice, this lease shall thereupon terminate forthwith without further act on the part of the Lessor.

SECTION 12

The Lessee covenants and agrees that at the expiration of the term of this lease or upon any earlier termination thereof it will peaceably vacate, give up and surrender said premises to the Lessor and upon the failure of the Lessee so to do the Lessor shall thereupon, or at any time thereafter, have the right and is hereby authorized to enter at once upon and take possession of said premises by entry, legal proceedings or otherwise as the Lessor may see fit, removing therefrom the Lessee and its employes, using such force as in the judgment of the Lessor may be necessary, without being liable in damages therefor, and take and have the said premises free and clear and discharged of all rights of the Lessee under this lease, except only the right of the Lessee to remove within Ninety (90) days after any such expiration or termination, all buildings, facilities and property located on said premises. The Lessee covenants and agrees, upon such termination of this lease, to pay rent in the manner and in the amount herein provided, to the date of removal of the buildings, facilities and property from said premises as hereinafter set forth, and if such rent has been paid in advance the Lessor shall refund to the Lessee the unearned portion thereof for the period extending beyond the date of removal of such building, facilities and property.

SECTION 13

The Lessee covenants and agrees that it will, within Ninety (90) days from the expiration of the term of this lease or any earlier termination thereof, remove all buildings, facilities and property from said premises and upon the failure of the Lessee so to do, the Lessee's right to remove such buildings, facilities and property, shall at the option of the Lessor cease and the Lessee's title thereto shall be forfeited and the same shall belong to the Lessor; or if the Lessor so elects, the Lessor shall have the right upon such failure of the Lessee to tear down any or all of such buildings, facilities and property on said premises, and to remove the same from said premises, without being liable in damges therefor or for injury or loss thereto in any respect whatsoever, and the Lessee covenants and agrees that it shall thereupon promptly reimburse the Lessor for all cost and expense incurred by it in so doing.

SECTION 14

All work of construction, erection, installation, maintenance, repair and removal of any building, facility or property on said premises and the removal of the same therefrom shall be performed in a good and workmanlike manner without interference to the operation of the Lessor's railroad. The Lessee agrees to indemnify and hold harmless the Lessor from and against any and all claims, demands, suits, liability and expense by reason of injury to or death of any person, or loss, damage or injury to any property, from any cause whatsoever, arising or growing out of the performance of any of such work by or on behalf of the Lessee. The Lessee agrees to furnish evidence, satisfactory to the Lessor, upon the Lessor's request, of the payment of all bills and the release of all liens for labor, equipment and material used in the performance of such work by or in the behalf of the Lessee and the Lessee agrees to indemnify and hold harmless the Lessor from all claims, demands, suits, liability and expense arising or growing out of the failure of the Lessee to pay all of such

bills and to secure the release of all such liens.

SECTION 15

Lessee represents that it has negotiated a loan from Reconstruction Finance Corporation and as security for said loan desires to assign this lease and to mortgage the installations, buildings, appurtenances thereto and all fixtures, machinery and equipment, and all other substitutions and additions thereto owned by the Lessee and located on said premises; and as further security for said loan desires to mortgage its leasehold under this lease. Lessor hereby consents to the granting of such mortgages, subject, however, to all of the terms, conditions and provisions of this lease. Lessor also agrees that Lessee may assign Lessee's interest in this lease to Reconstruction Finance Corporation, which assignment may contain provisions acceptable to the assignee to the effect that so long as the assignee or the holder of the note evidencing Lessee's indebtedness to Reconstruction Finance Corporation has not entered possession of the property covered by this lease, it shall not be liable for the performance of any of the obligations, agreements and covenants. Notwithstanding the making of any such assignment to Reconstruction Finance Corporation by the Lessee, the Lessee hereby covenants and agrees to continue to perform, fulfill and abide by all of covenants, agreements and conditions of this lease. The Lessee agrees that other than the assignment above-mentioned in this paragraph, it will not assign this lease nor sublet said premises, nor permit any other person, firm or corporation to occupy said premises, or any part of them, nor allow or permit any lien of any kind to be imposed upon said premises,

except as hereinabove set forth in this Section 15, without the written consent of the Lessor having been first obtained; subject to this limitation, this lease shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns.

SECTION 16

It is agreed that any waiver at any time by the Lessor of any breach or violation of any covenant, agreement or condition of this lease, shall extend only to the particular breach or violation so waived, and shall in no manner impair or affect the existence or continuance of such covenant, agreement or condition, or the right of the Lessor thereafter to avail itself of such covenant, agreement or condition, or any subsequent breach or violation.

SECTION 17

All notices to be given hereunder by either party to the other shall be in writing. Any such notice shall be deemed served at the time of mailing thereof in any United States Post Office, by registered mail, properly addressed, with postage thereon prepaid. Any such notice to be given to the

Lessee shall be addressed to any President or Vice-President of the Lessee. Any such notice to be given to the Lessor shall be addressed to the Land and Tax Commissioner of the Lessor at its general office.

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

Signed and seated in presence of:

U. R. Nolan

Irene E. Paulson

(Corporate Seal)

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

By _____
Assistant to the President
B. W. Carlton

Countersigned:

_____
Assistant Secretary
W. F. White

Signed and sealed in presence of:

Roger C. Minahan

Grace Klinger

(Corporate Seal)

MICHAEL YUNDT COMPANY

By _____
President
Eric V. Yundt

Countersigned:

_____
Secretary
Benj. C. Bugbee, Jr.

STATE OF ILLINOIS)
COUNTY OF COOK) SS

Personally came before me this 21st day of November, 1949, the above named B. W. Carlton and W. F. White, to me known to be the assistant to the president and assistant secretary of Chicago and North Western Railway Company and to me known to be the persons who executed the foregoing instrument as such officers and acknowledged that they executed the foregoing

instrument as such officers as the deed of said corporation, by its authority.

Irene E. Paulson
Irene E. Paulson
Notary Public, Cook County, Illinois

My commission expires: Sept. 23, 1951.

STATE OF WISCONSIN)
SS
MILWAUKEE COUNTY)

Personally came before me this 22nd day of November, 1949, the above named Emily V. Yundt and Benj. C. Bugbee, Jr., to me known to be respectively the President and Secretary of Michael Yundt Company, and to me known to be the persons who executed the foregoing instrument as such officers and acknowledged that they executed the foregoing instrument as such officers as the deed of said corporation, by its authority.

Grace Klinger
Grace Klinger
Notary Public, Milwaukee County, Wisconsin
My commission expires October 14, 1951.

State of Wisconsin)
DEPARTMENT OF STATE } ss.
Received this 5th day of December A. D. 1949 at 10:00 o'clock A. M. and recorded in Vol. 43 Railroad Mortgages on pages 227-238, incl.
Assistant Secretary of State

ASSIGNMENT

Dated at Chicago, Illinois December 2, 1949.

WHEREAS, under date of November 28, 1949, Michael Yundt Company, a Wisconsin corporation with its principal place of business at 225 South Grand Avenue, Waukesha, Wisconsin (hereinafter referred to as "Yundt") as Lessee, entered into an Indenture of Lease with Chicago and Northwestern Railway Company, a Wisconsin corporation (hereinafter referred to as "Railway Company") as Lessor, under which Indenture of Lease Railway Company demised to Yundt the following described real estate, to-wit: A parcel of land situated in the County of Waukesha, State of Wisconsin, described as follows:

> Beginning at the Northeast corner of Lot A-7 in Cutler and Dakin's Addition. Thence Westerly along the Northerly line of said Lot, One Hundred Fifty-seven and four-tenths (157.4) feet to corner in Lessor's right-of-way boundary. Thence Southerly along Lessor's right-of-way Six (6) feet. Thence Westerly along Lessor's right-of-way Thirteen and six-tenths (13.6) feet. Thence Northerly parallel to a preceding Six (6) foot course Eighteen (18) feet, more or less, to point which is Nine and five-tenths (9.5) feet Southerly at right angles from the center line of Lessor's Track No. 368. Thence Easterly parallel with and Nine and five-tenths (9.5) feet distant from said center line of Track, One Hundred Seventy-two (172) feet, more or less, to point on the Easterly line of Lot A-6 in aforesaid Addition. Thence Southerly along said Easterly line of Lot A-6, Thirty-one (31) feet, more or less, to point of beginning.
> Containing Three Thousand Ninety (3,090) square feet, more or less,
> Being part and parcel of Railway Company's Station Grounds at Waukesha, Wisconsin,

subject to the conditions, exceptions, and reservations specifically enumerated in said Indenture of Lease, for a term of eight years, commencing on the first day of November 1949; and

WHEREAS, Yundt has heretofore made application to Reconstruction Finance Corporation (hereinafter referred to as "RFC") for a loan in the aggregate sum of $185,000.00, which loan has been conditionally approved by RFC; and

WHEREAS, said loan will be evidenced by a note executed and delivered by Yundt to RFC in the aggregate principle amount of $185,000.00, bearing interest at 4% per annum on unpaid principle outstanding from time to time, said principle 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 Yundt, is the assignment by Yundt to RFC of its interest in said Lease as collateral security for the indebtedness to be evidenced by the Note;

NOW, THEREFORE; in consideration of the premises and other good and valuable consideration, receipt of which is hereby acknowledged, and as an inducement to RFC to make disbursement of said loan, or any part thereof, the undersigned, Yundt, does hereby convey, assign, transfer and set over unto RFC all its right, title, and interest in and to 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 said 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 Yundt in connection with said Lease, and that Yundt shall, not withstanding 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 approves.

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed by Emily V. Yundt, its President and countersigned by Benj. C. Bugbee, Jr., its Secretary, and its corporate seal to be hereunto affixed on the day and year first above written.

(CORPORATE SEAL)

MICHAEL YUNDT COMPANY

By Emily V. Yundt
President
Emily V. Yundt

Countersigned:
Benj. C. Bugbee, Jr.
Secretary
Benj. C. Bugbee, Jr.

Signed and sealed in the presence of
Roger C. Minahan
Rodger C. Minahan
John T. Peterson
John T. Peterson

STATE OF ILLINOIS
COUNTY OF COOK } SS

On this 2nd day of December, 1949, before me, John T. Conlon, the undersigned officer, personally appeared Emily V. Yundt, to me known to be the person who executed the foregoing instrument, who acknowledged herself to be the President of Michael Yundt Company a corporation, and that she, 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 herself as President.

On this 2nd day of December, 1949, before me, John T. Conlon, the undersigned officer, personally appeared Benj. C. Bugbee, Jr., to me known to be the person who executed the foregoing instrument, who acknowledged himself to be the Secretary of Michael Yundt 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.

(NOTARIAL SEAL)

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

My commission expires: Nov. 6, 1950.

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 5th day of December A. D. 1949 at 10:00 o'clock A.M. and recorded in Vol. 43 of Railroad Mortgages on pages 239-240, incl.
Assistant Secretary of State

CLA-LEE-9
Wisconsin Chattel Mortgage (Corp.)
(9-28-49)

CHATTEL MORTGAGE

THIS MORTGAGE, made this 2nd day of December, 1949, between Michael Yundt Company, a corporation duly organized and existing under the laws of the State of Wisconsin and having its principal place of business at 225 South Grand Avenue Street, in the City of Kenosha, 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"), 208 South La Salle Street, Chicago 4, Illinois,

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:

RFC FORM 301
7-12-49
Formerly L-180

NOTE

Chicago, Illinois
(City and State)

(Date) December 2, 1949

$185,000.00

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,

One Hundred Eighty-Five Thousand and 00/100 (Write out amount) dollars,

with interest on unpaid principal computed from the date of each advance to the undersigned at the rate of 4 percent per annum, payment to be made in installments as follows:

$5,000.00 monthly, commencing five months(s) from the date hereof, and the balance on or before

Sixty-five years months from the date hereof; interest payable [illegible] thereof, and in addition to all other payments of principal required by this note, undersigned shall make payments on or before March 1, 1951 and on or before the 1st day of March of each and every year thereafter, until principal 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 [illegible] for undersigned's immediately preceding fiscal year, less the aggregate amount [illegible] required to be paid on principal of this note (exclusive of [illegible] paid and applied pursuant to this "Set Earnings Provision") during the 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 "Set Earnings Provision" shall be applied on the installments of principal of this note in the inverse order of their maturities.

The first payment under this "Set Earnings Provision" shall be based on this fiscal year ending December 31, 1950.

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, guarantees, 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 or 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 transaction 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 action taken, whether or not incurred in or out of any, 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 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 pur- chaser, assignee, transferee, or pledgee of this Note and/or the Collateral, guaranty or other document sold, assigned, transferred, pledged, or released, shall forthwith become vested with and entitled to exercise all the powers and rights given by this Note and all implications 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:

MICHAEL YUNDT COMPANY

By _____ President

_____ Secretary

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. Note in duplicate, one copy to accompany application, should be filed in, but such Note need not be executed. Formally executed Note is to be delivered at the time of disbursement of loan.

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 whether 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 described goods, chattels and other property and rights (hereinafter sometimes called the "Mortgaged Property") to-wit:

That portion of the building measuring approximately 17.20' x 165.4' = 9.12' = 165.28' known as Building No. 3, owned by Michael Yundt Company, a corporation, at 225 South Grand Avenue, Waukesha, Wisconsin, and located on land leased by Mortgager from Chicago and Northwestern Railway Company, a corporation, under Lease No. 59414 dated November 28, 1949, for a term of eight years from November 1, 1949, together with installations and appurtenances thereto.

All of the above Mortgaged Property being located on the following described premises in the City of Waukesha, County of Waukesha State of Wisconsin, to-wit: On

Land owned by Chicago and Northwestern Railway Company, a Wisconsin corporation, situated in the City of Waukesha, State of Wisconsin, legally described as follows:

Beginning at the Northeast corner of Lot A-7 in Cutler and Dakin's Addition. Thence Westerly along the Northerly line of said Lot, One Hundred Fifty-seven and four-tenths (157.4) feet to corner in Lessor's right-of-way boundary. Thence Southerly along Lessor's right-of-way Six (6) feet. Thence Westerly along Lessor's right-of-way Thirteen and six-tenths (13.6) feet. Thence Northerly parallel to a preceding Six (6) foot course Eighteen (18) feet, more or less, to point which is Nine and five-tenths (9.5) feet Southerly at right angles from the center line of Lessor's Track No. 368. Thence Easterly parallel with and Nine and five-tenths (9.5) feet distant from said center line of Track, One Hundred Seventy-two (172) feet, more or less, to point on the Easterly line of Lot A-6 in aforesaid Addition. Thence Southerly along said Easterly line of Lot A-6, Thirty-one (31) feet, more or less, to point of beginning. Containing Three Thousand Ninety (3,090) square feet, more or less.

Being part and parcel of Chicago and Northwestern Railway Company's station grounds at Waukesha, Wisconsin.

All other goods and chattels of the Mortgagor, wherever located;

All substitutions, renewals, additions or accumulations of personal property, which the Mortgagor may hereafter acquire, it being the intent of the Mortgagor to mortgage the property described in this mortgage and all additional property which the Mortgagor may, from time to time, acquire;

All rights, privileges and franchises which now or at any time hereafter may belong to the Mortgagor, its successors and assigns, including the name and the business of the Mortgagor and the good will of the business of the Mortgagor and all trade marks, trade names, copyrights, processes, formulas, patents, patent applications, patent rights, licenses and inventions of every kind and nature whatsoever;

All the rents, issues, income and profits of the Mortgaged Property above described.

TO HAVE AND TO HOLD the above described Mortgaged Property unto said Mortgagee, its successors and assigns, forever, for the uses and purposes herein set forth.

Provided, however, that this instrument shall be void if the Mortgagor performs the conditions herein and pays the Mortgagee, its successors or assigns, or the holder of the Note, the full amount of the Note, both principal and interest, including any renewals or extensions of the Note, together with any other indebtedness which may be owing by the Mortgagor to the Mortgagee.

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.

2. That the 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 the 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 the Mortgagor will keep the Mortgaged Property in good repair and operating condition, and will pay all taxes, 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 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, 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, including all penalties, interest or costs that may be due or accrue thereon.

5. That the Mortgagor will not permit any landlord's lien or 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 the 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.

8. That the 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, its 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 the Mortgagor will not remove, or attempt to remove, any of the mortgaged property from the place in which it is now located, without the prior written consent of the Mortgagee, its successors or assigns, or the holder of the Note.

11. That the Mortgagor will not permit the Mortgaged property to be levied upon under execution, attachment or distraint.

12. That the 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.

13. That the Mortgagor will pay all rent promptly as and when the same becomes due for premises leased to the Mortgagor and on which the Mortgaged property or any part thereof is located.

14. That the Mortgagee, its successors or assigns, or the holder of the Note shall be given access to the premises on which the Mortgaged property is situated for the purpose of inspecting the Mortgaged property or enforcing any provision of this mortgage, or any other agreement between the parties hereto.

15. That the 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.

16. That the 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 transfers, 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.

17. That the Mortgagor will make, execute, acknowledge and deliver or cause to be made, executed, acknowledged and delivered all such further 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 mortgaging, assigning, pledging, transferring, assuring and confirming unto the Mortgagee, its successors or assigns, or the holder of the Note, the Mortgaged property hereby mortgaged, assigned, pledged and transferred, 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 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.

In case of the failure of the Mortgagor, as above provided, to keep the Mortgaged Property in good repair and operating condition, to pay all taxes, to keep the Mortgaged Property free from liens of mechanics or material men or to pay rent for premises upon which the Mortgaged Property, or any part thereof, is located, 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, including accrued penalties, if any, at any time after said taxes shall have become due and payable, contest any and all taxes whenever, in the opinion of the Mortgagee, its successors or assigns, or the holder of the Note, such contest is necessary, pay any judgments based upon such tax levies, pay, settle or contest any lien or claim for lien of mechanics or material men filed or imposed against the Mortgaged Property, pay said rent and procure such insurance as is above described. And all moneys paid for any such purpose and any other moneys disbursed by the Mortgagee, its successors or assigns, or the holder of the Note, to protect the lien of this mortgage, with interest thereon from the date of payment at the same rate per annum as is borne by the Note, shall become so much additional indebtedness secured by this mortgage, and be paid out of the rents, issues, income and profits, or out of the proceeds of the sale of the Mortgaged Property, if not otherwise paid by the Mortgagor, and it shall not be obligatory to inquire into the necessity of such repairs in advancing moneys in that behalf as above authorized, or to inquire into the validity of such taxes or judgments or sales therefor, or of liens of mechanics or material men or of any claims for said rent or into the necessity for such insurance, but nothing herein contained shall be construed to require the Mortgagee, its successors or assigns, or the holder of the Note, or any of them, to advance or expend any money for such repairs, taxes, rent, judgments, liens of mechanics or material men, insurance or for any other purpose.

The Mortgagor shall have the right to retain possession of the Mortgaged Property, and at Mortgagor's own expense to keep and use the same, until a default shall occur hereunder as hereinafter defined.

If the Mortgagor shall fail to observe or perform any of the covenants, conditions, or obligations expressed in this mortgage, or in the Note, or if there shall be discovered by the Mortgagee, its successors or assigns, or the holder of the Note, any failure of the Mortgagor to disclose any fact deemed by the Mortgagee, its successors or assigns, or the holder of the Note, to be material in any application of the Mortgagor to the Mortgagee, its successors or assigns, or the holder of the Note, for a loan, or any extension or renewal thereof, and/or any misrepresentation by, on behalf of, or for the benefit of the Mortgagor in any application for such loan, or any extension or renewal thereof, or in any agreement, affidavit, certificate, exhibit, or instrument executed and delivered to the Mortgagee, its successors or assigns, or the holder of the Note, in connection therewith, or if the Mortgagor shall become a party to any attempt to extend, adjust, or compromise any liability of the Mortgagor, or reorganize the Mortgagor under the bankruptcy laws of the United States, or otherwise, or if a petition in bankruptcy shall be filed either by or against the Mortgagor pursuant to the bankruptcy laws of the United States, or upon making by the Mortgagor of an assignment for the benefit of Mortgagor's creditors, or if final judgment, order or decree for the payment of money shall be rendered against the Mortgagor and the Mortgagor shall not discharge the same or cause it to be discharged within ten (10) days after the rendition thereof, or shall not appeal therefrom in such manner as to preclude or conclusively set aside the execution of or levy under said judgment, order or decree, or if the Mortgagee, its successors or assigns, or the holder of the Note shall feel itself or themselves insecure, or shall fear removal of any of the Mortgaged Property (each of which events is, for the purposes of this mortgage, hereby defined as a "default"), then in any such case, the whole of the indebtedness hereby secured shall at once, at the option of the Mortgagee, its successors or assigns, or the holder of the Note, become immediately due and payable without notice to the Mortgagor, and the Mortgagee, its successors or assigns, or the holder of the Note, shall have the right to take immediate possession of the Mortgaged Property, or any portion thereof, and for that purpose may pursue the same wherever it may be found, and may enter any of the premises

of the Mortgagor with or without force or process of law, wherever the Mortgaged Property may be, or be supposed to be, and search for the same, and take possession of, remove, keep and store the same until sold; and sell and dispose of the said property, or any part thereof, at public auction to the highest bidder, and at any such sale the Mortgagee, its successors or assigns, are hereby authorized to employ, at its or their discretion, an auctioneer or auctioneers to conduct such sale, or at private sale, for cash or on credit, as the Mortgagee, its successors or assigns, or the holder of the Note, its or their agents or attorneys, or any of them, may elect, such public auction or private sale to be held after serving a five days' written notice upon the owner of the equity of redemption in such property so taken, if such owner resides within the county where such property is situated when so taken, and at any such sale the Mortgagee, its successors or assigns, may become the purchaser of all or any part of the Mortgaged Property, and out of the proceeds of such sale retain the amount due and unpaid upon the Note, and all costs and charges for pursuing, searching for, taking, removing, keeping, storing, advertising and selling such Mortgaged Property, together with reasonable attorneys' fees and auctioneers' charges, commissions and expenses, rendering the surplus, if any remain unto the Mortgagor.

This mortgage shall be a lien on the Mortgaged Property as security for the full amount of said indebtedness, whether the principal amount of the Note, or any part thereof, is disbursed to the Mortgagor by the Mortgagee simultaneously with the execution of this mortgage or subsequent thereto, in installments or otherwise.

If the Mortgaged Property shall be on premises leased to the Mortgagor, and the Mortgagee, its successors, or assigns, or the holder of the Note shall determine to take possession of the Mortgaged Property by virtue of the powers herein granted, the Mortgagee, its successors, or assigns, or the holder of the Note, and the lessor of said premises are hereby authorized to make such arrangements as they may see fit to make with respect to the occupancy of such premises by the Mortgagee, its successors, or assigns, or the holder of the Note, or any purchaser or purchasers of the Mortgaged Property.

All the covenants, stipulations, promises, undertakings and agreements herein contained by or on behalf of the Mortgagor, shall bind its successors and assigns whether so expressed or not. For every purpose of this mortgage, the term "Mortgagor" includes and means not only the Mortgagor itself, but also its successors and assigns, particularly including any corporation into or with which the Mortgagor may, with the consent of the Mortgagee, its successors or assigns, or the holder of the Note, be merged or consolidated.

No remedy herein contained conferred upon the Mortgagee, its successors or assigns, or the holder of the Note, is intended to be exclusive of any other remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

No delay or omission of Mortgagee, its successors, or assigns, or the holder of the Note to exercise any right or power accruing upon any default as aforesaid shall impair any such right or power or be construed as a waiver of any such default or acquiescence therein and every power and remedy given by this mortgage to Mortgagee, its successors, or assigns, or the holder of the Note may be exercised from time to time and as often as may be deemed expedient by Mortgagee, its successors or assigns, or the holder of the Note.

This mortgage may be executed, acknowledged and delivered in any number of counterparts, each of which is and shall be taken, accepted and received by the parties named herein and by all public officers for recording deeds and other instruments and by all other persons whomsoever in any proceeding whatever, legal or otherwise, based hereon or transacted in connection herewith as an original and all of which counterparts shall together evidence but one and the same undertaking.

The unenforceability or invalidity of any provision or provisions of this mortgage shall not render any other provision or provisions herein contained unenforceable or invalid.

IN WITNESS WHEREOF, the Mortgagor has caused these presents to be signed by Emily V. Yundt, its _____ President and countersigned by Benj. C. Bugbee, Jr., its _____ Secretary, and its corporate seal to be hereunto affixed on the day and year first above written.

MICHAEL YUNDT COMPANY

(CORPORATE SEAL)

By Emily V. Yundt
President
Emily V. Yundt

Signed and sealed in the presence of

Robert C. Minnear

John T. Peterson

Countersigned:

Benj. C. Bugbee, Jr.
Secretary
Benj. C. Bugbee, Jr.

STATE OF ILLINOIS }
COUNTY OF COOK } SS

On this 2nd day of December, 1949, before me, John T. Conlon, the undersigned officer, personally appeared Emily V. Yundt, to me known to be the person who executed the foregoing instrument, who acknowledged herself to be the _____ President of Michael Yundt Company, a corporation, and that she, 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 herself as _____ President.

On this 2nd day of December, 1949, before me, John T. Conlon, the undersigned officer, personally appeared Benj. C. Bugbee, Jr., to me known to be the person who executed the foregoing instrument, who acknowledged himself to be the _____ Secretary of Michael Yundt 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.

(NOTARIAL SEAL)

John T. Conlon
Notary Public in and for the
County of COOK,
State of ILLINOIS.

My commission expires: Nov. 6, 1950.

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 5th day of December A. D. 19 49 at 10:00 o'clock A. M. and recorded in Vol. 43 of Railroad Mortgages on pages 241-250, incl.
Assistant Secretary of State

NORTHERN PACIFIC RAILWAY
EQUIPMENT TRUST OF 1946,

SUPPLEMENTAL AGREEMENT

numbers and the description of the said cars, and other matters, are recitals of the Company.

5. In all other respects the said Lease is hereby ratified and confirmed.

6. This Supplemental Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts

SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT, dated as of the 17th day of December 1949, by and between J. P. MORGAN & CO. INCORPORATED, a trust company duly organized and existing under the laws of the State of New York (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,

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

Russell Dick

James L. Hughes

NORTHERN PACIFIC RAILWAY COMPANY

By J. H. Bore
Vice President

Attest:

Thos. McKee
Assistant Secretary

STATE OF NEW YORK)
)ss
COUNTY OF NEW YORK)

I, ROBERT H. GRANT, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 16th day of December, 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 December 12, 1949, S. W. Cragin and Joseph P. Dow, each to me personally known and known to me to be respectively a Vice President and an Assistant Secretary of J. P. Morgan & Co. Incorporated, one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary respectively in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and to be duly authorized to make this acknowledgment as hereinafter stated, and the said S. W. Cragin and Joseph P. Dow

being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said S. W. Cragin resides at Pheasant Lane, Greenwich, Conn, and that the said Joseph P. Dow resides at 847 Shackamaxon Drive, Westfield, N.J.; and said S. W. Cragin is a Vice President and said Joseph P. Dow is an Assistant Secretary of J. P. Morgan & Co. Incorporated, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said S. W. Cragin and Joseph P. Dow, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the by-laws of such corporation and by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary

act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

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

Robert H. Grant

ROBERT H. GRANT
NOTARY PUBLIC, State of New York
Qualified in New York County
No. 31-1536350
Certs. filed with Bronx, Kings, Queens, Richmond, Westchester and Nassau Co. Clerks, New York, Bronx, Kings and Queens Co. Registrars
Term Expires March 30, 1951

STATE OF MINNESOTA)
} ss
COUNTY OF RAMSEY)

I, G. T. C. PETERSON, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 12th day of December, 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 December 12, 1949, J. H. POORE and HUGH MC LEOD; each to me personally known and known to me to be respectively a Vice President and an Assistant Secretary of Northern Pacific Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and to be duly authorized to make this acknowledgment as hereinafter stated, and the said J. H. POORE and HUGH MC LEOD, 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 HUGH MC LEOD resides at ~~1047 Fairmount~~ 1187 Princeton Avenue, St. Paul, Minnesota; and said J. H. POORE is a Vice President and said HUGH MC LEOD is an Assistant Secretary of Northern Pacific Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said J. H. POORE and HUGH MC LEOD, 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 author ized 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.

G. T. C. Peterson

G. T. C. PETERSON
Notary Public, Ramsey Co., Minn.
My commission expires Oct. 21, 1956.

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 28th *day of* DECEMBER *A. D. 19* 49 *at* 10:00 *o'clock* A. *M. and recorded in Vol.* 43 *of* RAILROAD MORTGAGES *on pages* 251-256, incl.
Robert C. Zimmerman
Assistant Secretary of State

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NORTHERN PACIFIC RAILWAY
EQUIPMENT TRUST OF 1949,

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SUPPLEMENTAL AGREEMENT

Dated December 12, 1949

between

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK

Trustee

and

NORTHERN PACIFIC RAILWAY COMPANY.

SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT, dated as of the 12th day of December, 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"), dated as of March 15, 1949, between Northwestern Improvement Company, as Vendor, the Trustee and the Company, there was constituted NORTHERN PACIFIC RAILWAY EQUIPMENT TRUST OF 1949, pursuant to which a Lease of railroad equipment (hereinafter called the "Lease"), dated as of March 15, 1949, was entered into between the Trustee and the Company; and

WHEREAS, under said Lease the Trustee did lease to the Company, among other railroad equipment described therein, two (2) 4500 H.P. Diesel Passenger

Locomotives, each consisting of three (3) units, identified in said Lease by Road Numbers 6507-6508, inclusive; and

WHEREAS, for the convenient and efficient operation of said Diesel locomotive units in the business of the Company, it is deemed desirable from time to time to use different reporting numbers in the designation of said units for operating purposes; and

WHEREAS, upon delivery of certain units of said Diesel Passenger Locomotives, road numbers differing from those used in said Lease to describe said locomotives were assigned thereto and used for reporting purposes; and

WHEREAS, there is affixed to each of said units a manufacturer's serial number which constitutes a suitable and permanent means of identifying each of such units;

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

1. The Road Numbers designating said units of Diesel locomotive equipment, which Road Numbers appear

at page 51 of said Lease, are hereby eliminated as part of the description of said units and there are hereby substituted therefor the manufacturer's serial numbers affixed to such units, as follows:

Road Number	Manufacturer's Serial Number
6507	7146
"	7150
"	7147
6508	7148
"	7151
"	7149

2. The Company covenants that in case, at any time during the continuance of said Lease, the manufacturer's serial number affixed to any of said units shall be removed, defaced or destroyed, the Company will immediately cause the same to be restored or replaced.

3. The Company may cause to be placed on each such unit of Diesel locomotive equipment in such position as not to be confused with the manufacturer's serial number affixed thereto, a reporting number identifying such particular unit for reporting and operating purposes, which reporting number may be changed by the Company from time to time without the consent of the Trustee or the recording or filing of any instrument. The Company agrees, however, that it will, upon or prior to the delivery of

this Supplemental Agreement, and thereafter in each year at the same time as the statements required by Paragraph 7 of the Lease, lodge with the Trustee a statement showing the reporting number as well as the manufacturer's serial number of each unit, and it further agrees that if any change shall at any time be made in the reporting number of any such unit it will promptly report such change in writing to the Trustee.

4. The recitals hereinbefore contained of the numbers and the description of the said units, and other matters, are recitals of the Company.

5. In all other respects the said Lease is hereby ratified and confirmed.

6. This Supplemental 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 Supplemental Agreement 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 the Agreement and the Lease, 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 December 12, 1949.

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

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

By _____ Vice President

Attest: _____ Assistant Cashier

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

NORTHERN PACIFIC RAILWAY COMPANY

By _____ Vice President

Attest: _____ Assistant Secretary

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 16th day of December, 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 December 16th, 1949, Henry S. Sturgis and C. Malcolm 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 Henry S. Sturgis and C. Malcolm 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 Henry S. Sturgis resides at Edgewood Lane, Scarsdale, New York, and that the said C. Malcolm Davis resides at Washington Avenue, Morristown, N. J.; that the said Henry S. Sturgis is a Vice President and the said C. Malcolm 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 Henry S. Sturgis and C. Malcolm 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.

Edna Veith

EDNA VEITH
Notary Public for the State of N.Y.
Qualified in New York County
No. 31-4092750
Commission Expires March 30, 1951

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

I, G. T. C. PETERSON, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 12th day of December, 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 December 12, 1949, J. H. POORE and HUGH MC LEOD; each to me personally known and known to me to be respectively a Vice President and an Assistant Secretary of Northern Pacific Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and to be duly authorized to make this acknowledgment as hereinafter stated, and the said J. H. POORE and HUGH MC LEOD, 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 HUGH MC LEOD resides at ~~1047 Fairmount~~ 1051 Princeton Avenue, St. Paul, Minnesota; and said J. H. POORE is a Vice President and said HUGH MC LEOD is an Assistant Secretary of Northern Pacific Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said J. H. POORE and HUGH MC LEOD, 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 author ized 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.

G. T. C. Peterson

G. T. C. PETERSON
Notary Public, Ramsey Co., Minn.
My commission expires Oct. 21, 1956.

State of Wisconsin } ss.
DEPARTMENT OF STATE
Received this 28th *day of* DECEMBER *A. D. 19* 49 *at* 10:00 *o'clock* A. *M. and recorded in Vol.* 43 *of* RAILROAD MORTGAGES *on pages* 257-262, incl.
Robert C. Zimmerman
Assistant Secretary of State

NORTHERN PACIFIC RAILWAY
EQUIPMENT TRUST OF 1949,
SECOND SERIES

SUPPLEMENTAL AGREEMENT

Dated December 12, 1949

between

FIRST TRUST COMPANY OF SAINT PAUL

Trustee

and

NORTHERN PACIFIC RAILWAY COMPANY

SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT, dated as of the 12th day of December, 1949, by and between 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 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"), dated as of June 15, 1949, between Northwestern Improvement Company, as Vendor, the Trustee and the Company, there was constituted NORTHERN PACIFIC RAILWAY EQUIPMENT TRUST OF 1949, SECOND SERIES, pursuant to which a Lease of railroad equipment (hereinafter called the "Lease"), dated as of June 15, 1949, was entered into between the Trustee and the Company; and

WHEREAS, under said Lease the Trustee did lease to the Company, among other railroad equipment described therein, four (4) 4500 H.P. Diesel-Electric Passenger

Locomotives, consisting of nine (9) "A" units and three (3) "B" units, identified in said Lease by Road Numbers 6509-6512, inclusive; and

WHEREAS, for the convenient and efficient operation of said Diesel locomotive units in the business of the Company, it is deemed desirable from time to time to use different reporting numbers in the designation of said units for operating purposes; and

WHEREAS, upon delivery of certain units of said Diesel Passenger Locomotives, road numbers differing from those used in said Lease to describe said locomotives were assigned thereto and used for reporting purposes; and

WHEREAS, there is affixed to each of said units a manufacturer's serial number which constitutes a suitable and permanent means of identifying each of such units;

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

1. The Road Numbers designating said units of Diesel locomotive equipment, which Road Numbers

appear at page 49 of said Lease, are hereby eliminated as part of the description of said units and there are hereby substituted therefor the manufacturer's serial numbers affixed to such units, as follows:

Road Number	Manufacturer's Serial Number	Road Number	Manufacturer's Serial Number
6509	8732	6511	8736
"	8731	"	8741
"	8733	"	8737
6510	8734	6512	8738
"	8735	"	8742
"	8740	"	8739

2. The Company covenants that in case, at any time during the continuance of said Lease, the manufacturer's serial number affixed to any of said units shall be removed, defaced or destroyed, the Company will immediately cause the same to be restored or replaced.

3. The Company may cause to be placed on each such unit of Diesel locomotive equipment in such position as not to be confused with the manufacturer's serial number affixed thereto, a reporting number identifying such particular unit for reporting and operating purposes, which reporting number may be changed by the Company from time to time without the consent of the Trustee or the recording or filing of any instrument. The Company agrees, however, that it will, upon or prior to the delivery of this Supplemental Agreement, and thereafter in each year at the same time as the statements

required by Paragraph 7 of the Lease, lodge with the Trustee a statement showing the reporting number as well as the manufacturer's serial number of each unit, and it further agrees that if any change shall at any time be made in the reporting number of any such unit it will promptly report such change in writing to the Trustee.

4. The recitals hereinbefore contained of the numbers and the description of the said units, and other matters, are recitals of the Company.

5. In all other respects the said Lease is hereby ratified and confirmed.

6. This Supplemental 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 Supplemental Agreement 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 the Agreement and Lease, 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 December 12, 1949.

Signed, sealed and delivered by First Trust Company of Saint Paul, in the presence of:

Margaret Golisch

Patricia Band

FIRST TRUST COMPANY OF SAINT PAUL, as Trustee

By [signature]
Vice President

Attest:

[signature]
Secretary

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

[signature]

Joan L. Jughans

NORTHERN PACIFIC RAILWAY COMPANY

By [signature]
Vice President

Attest:

[signature]
Assistant Secretary

STATE OF MINNESOTA)
)ss
COUNTY OF RAMSEY)

I, MARGARET GOLISCH,

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 13 day of December, 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 December 12, 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, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such and to be duly

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, 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

Executed in 22 Counterparts

Counterpart No. 4

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

Lease of Railroad Equipment

DATED AS OF JUNE 1, 1950

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO

TO

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

Agreement

DATED AS OF JUNE 1, 1950

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

LEASE OF RAILROAD EQUIPMENT, dated as of June 1, 1950, 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, 1950, 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 LL", 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 railroad equipment of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series LL, (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:

No. of Locomotives	Description	Estimated Cost Per Locomotive	Total
	Diesel-Electric Freight Locomotives		
1	4500 H. P. Diesel-electric freight locomotive (65:12 gear ratio), comprised of a lead unit, a booster unit, and a lead unit, and numbered, respectively, 68A and 68B and 68C	$487,204.47	$ 487,204.47
5	4500 H. P. Diesel-electric freight locomotives (62:15 gear ratio), each comprised of a lead unit, a booster unit, and a lead unit, and numbered, respectively, 69A and 69B and 69C to 73A and 73B and 73C, both inclusive...	494,604.47	2,473,022.35
	Diesel-Electric Passenger Locomotives		
6	4500 H. P. Diesel-electric passenger locomotives, each comprised of a lead unit, a booster unit, and a lead unit, and numbered, respectively, 90A and 90B and 90C to 95A and 95B and 95C, both inclusive...	521,717.59	3,130,305.54

No. of Locomotives	Description	Estimated Cost Per Locomotive	Total
	Diesel-Electric Transfer Locomotive		
1	2400 H. P. Diesel-electric transfer locomotive, comprised of a lead unit and a booster unit, and numbered 2001A and 2001B	198,981.85	198,981.85
13	Total estimated cost...		$6,289,514.21

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 $6,200,000.

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.

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.

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 LL, 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 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, how-

ever, 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 LL, 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 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 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 liens, 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, 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. If the Trustee shall receive an opinion of counsel that such proposed action will not impair its title to the Trust Equipment and if in the judgment of the Trustee such action will not be otherwise detrimental to the interests of the Trust Certificate holders, it may, on written request of the Railroad Company setting forth the 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 breach of this covenant, but the appointment of a receiver or receivers or a trustee or trustees in bankruptcy for the Railroad Company, or its property, or the filing of a voluntary petition under the Bankruptcy Act, shall be deemed an unauthorized assignment by the Railroad Company of its rights and interests in the Trust Equipment and shall be deemed a breach of this covenant, unless (a) any such receiver or receivers, or trustee or trustees, shall have been discharged within sixty (60) 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 of the Railroad Company 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 (b) any such petition shall have been withdrawn and proceedings thereon terminated within a like period.

Seventh. In case the Railroad Company

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

(2) shall make or suffer any unauthorized assignment or transfer of its rights or interest in, or any unauthorized sublease of, or, except as herein authorized, part with the possession of, the Trust Equipment, or any thereof, and shall fail or refuse either to cause such assignment or transfer or sublease to be canceled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within thirty days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said thirty days to deposit with the Trustee a sum in cash equal to the actual cost of the Trust Equipment so assigned or transferred or subleased, or the possession of which shall have been so parted with, as certified to the Trustee pursuant to Section 4 of Article I of the 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 a Vice-President or the 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 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 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 the 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 the 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 owners of interests in said Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series LL; 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 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 and in such order as may be deemed expedient. 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 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 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,
As Trustee,

By R. M. Kimball
R. M. Kimball,
Vice-President.

Attest:

E. J. Friedrich
E. J. Friedrich,
Assistant Secretary.

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

W. G. Everist
W. G. Everist,

E. W. Fahrenbach
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
Ruth E. Hall,

C. G. Metzler
C. G. Metzler,
Attesting Witnesses.

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

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 2nd day of June, 1950, personally appeared before me within said County and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, the within named R. M. Kimball and E. J. Friedrich, each to me personally known and known to me to be, respectively, a Vice-President and an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, the corporation described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice-President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and said R. M. Kimball and E. J. Friedrich, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that said R. M. Kimball resides in Evanston, in the State of Illinois, and that said E. J. Friedrich resides in Elmhurst, in the State of Illinois, that said R. M. Kimball is a Vice-President and said E. J. Friedrich is an Assistant Secretary of Continental Illinois National Bank and Trust Company of Chicago, the corporation described in

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

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

My commission as such Notary Public expires October 19, 1953.

E. W. Lueders

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

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 1st day of June, 1950, 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 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 Park Ridge, 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 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. W. Spangenberg,
Notary Public in and for the State of Illinois, County of Cook.

This Agreement, dated as of June 1, 1950, by and among **H. J. Groener** and **H. H. Comley** (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 $4,650,000 to a fund to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series LL, 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 $4,650,000 in thirty semiannual installments of $155,000 each, payable respectively on June 1st and December 1st, in each year, beginning on December 1, 1950, and ending on June 1, 1965, 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 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 LL, 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 Cer-

tificates), 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.

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 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 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

(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.

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, 1951.

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 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 $6,200,000, 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 $6,200,000.

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 $4,650,000 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 in-

stallment 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 2¼ per cent per annum from June 1, 1950, payable semiannually on the first day of June and December in each year. $155,000 principal amount of the Trust Certificates shall become due and payable on June 1 and December 1 in each year beginning on December 1, 1950, and ending on June 1, 1965. 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 4,650, 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. 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 LL

Total Issue not to exceed $4,650,000

Dividends at the rate of Two and One-Fourth 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, 1950 (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 LL, 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 June 1, 1950, to said date of maturity, payable semiannually on June first and December first in each year, but only upon presentation and surrender as they severally mature of the dividend warrants hereto attached, both principal and dividends being payable at the office of

the Trustee in the City of Chicago and State of Illinois, or at the agency of the Trustee in the Borough of Manhattan, in the City and State of New York, in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts, but only from and out of rentals or other moneys received by the Trustee from a certain Lease of Railroad Equipment made by Continental Illinois National Bank and Trust Company of Chicago, Trustee, to the Railroad Company, dated as of June 1, 1950.

This certificate is one of an issue of certificates, in bearer form, in an aggregate principal amount not exceeding $4,650,000, substantially identical except as to dates of maturity, all issued or to be issued under the 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 the Agreement) and the 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 the 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 or thereof 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 the 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 the 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 June, 1950.

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 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, being the semiannual dividend then due on Certificate No. _____ of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series LL, 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 and one-fourth per cent (2¼%) 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 any present or future Assistant Secretary of the Trustee, and the Trustee may adopt and use for that purpose any such facsimile signature notwithstanding the fact that any 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 pre-

pared. 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 dividends thereon in like coin or currency at the rate of 2¼ per cent per annum from June 1, 1950, 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 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 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 com-

pensation 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, 1965, 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 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 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 (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 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

(e) to the payment, insofar 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, 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 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 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.

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 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.

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 terms "Trustee" and "Railroad Company" as used herein and in the Lease shall be held and construed to mean, respectively, Continental Illinois National Bank and Trust Company of Chicago, its successors and assigns, and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, its successors and assigns. The term "Trust Equipment" whenever 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. The terms "Trust Certificate" or "Trust Certificates", whenever used herein or in the Lease, include, unless the context otherwise indicates,

both temporary and definitive certificates. The term "State" whenever used herein or in the 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 to or made upon 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.

H. J. Groener (L. S.)

H. H. Conley (L. S.)

Signed, sealed and delivered by H. J. Groener and H. H. Conley in the presence of:

W. G. Everist

E. W. Fahrenbach,
Attesting Witnesses.

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

By R. M. Kimball,
Vice-President.

Attest:

E. J. Friedrich,
Assistant Secretary.

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

W. G. Everist,

E. W. Fahrenbach,
Attesting Witnesses.

State of Illinois,
County of Cook. } ss.

I, R. W. Spangenberg, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements, and hereditaments in said county, DO HEREBY CERTIFY that on the 15th day of June, 1950, 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 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 Park Ridge, 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 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 cor-

poration; 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 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.
County of Racine, }

Received this 6th day of June, A.D., 1950, at 10:00 o'clock A.M., and recorded in Vol. 15 of Mortgages on Page 206-208, Instantly.

Fred Zimmermann
Assistant Secretary of State

CLA-LBE-9
Wisconsin Chattel Mortgage
(Individual)
(9-28-49)

MORTGAGE

THIS MORTGAGE, made this 26th day of July, 19 50 between A. L. Brown, individually, and d/b/a Baraboo Concrete Products Company, and Margaret E. Brown, his wife

206 Depot Street,
in the City of Baraboo, State of Wisconsin,
(hereinafter jointly and severally called "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 "Mortgagee"), 208 South La Salle Street, Chicago 4, Illinois,

WITNESSETH THAT:

WHEREAS, to evidence the indebtedness secured hereby, Mortgagor has executed and delivered to Mortgagee the promissory note (hereinafter called the "Note") of which the following is a copy, excepting the signatures of the persons signing the same:

RFC-Form 344
Revised 1-1-50
Formerly L-160

NOTE

Chicago, Illinois
(City and State)

$ 50,000.00 (Date) July 26, 19 50

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 ($50,000.00) and 00/100ths (Write out amount) dollars, with interest on unpaid principal computed from the date of each advance to the undersigned at the rate of 4 percent per annum, payment to be made in installments as follows:

$ 850.00 monthly, commencing two months(s) from the date hereof, and the balance on or before five years from the date hereof.

Interest payable monthly, commencing one month from the date hereof and each month thereafter; and in addition to all other payments of principal required by this note, undersigned shall make payments on or before March 1, 1952 under a "Net Earnings Provision" as provided in the Rider attached to and made a part of this note. The undersigned's fiscal year ending December 31, 1951 shall be the first fiscal year to which the "Net Earnings Provision" shall apply.

[illegible]

A. L. Brown, Individually

A. L. Brown, d/b/a BARABOO CONCRETE PRODUCTS COMPANY

RIDER ATTACHED TO AND MADE A PART OF THE UNDERSIGNED'S NOTE DATED July 26, 1950, PAYABLE TO THE ORDER OF RECONSTRUCTION FINANCE CORPORATION

NET EARNINGS PROVISION: In addition to all other payments of principal required by this Note, undersigned shall make payments on or before March 1, 1952, 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 (as hereinafter defined) for the 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 the preceding fiscal year. Such net earnings shall be determined in accordance with good accounting practice as determined by the Auditing Division of Payee and for the purpose of this Note shall be:

The net earnings derived by the undersigned from the business conducted by him as BARABOO CONCRETE PRODUCTS COMPANY, Baraboo, Wisconsin, before depreciation and income taxes, less the sum of:

(a) $7,500 for personal withdrawals;

plus

(b) a sum equal to the product resulting from multiplying the aggregate amount of the income tax shown on the Federal Income Tax return and the State Income Tax return, if any, of the undersigned, by a fraction, using the net profit of the undersigned derived from the business above described, as shown on such Federal Income Tax return, as the numerator and the adjusted gross income, as shown on such Federal Income Tax return (including the undersigned's spouse's income, if the return is joint), as the denominator.

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.

A. L. Brown, Individually,

A. L. Brown, d/b/a
BARABOO CONCRETE PRODUCTS COMPANY

CLA-LSE-9
Wisconsin Chattel Mortgage
(Individual)
(10-23-47)

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 Mortgagor to be performed under the terms of all contracts whether 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 described goods, chattels and other property and rights (hereinafter sometimes called the "Mortgaged Property") to-wit:

1. An irregular shaped building fronting approximately 134.6 feet on Chicago and North Western Railway Company's railroad tracks and extending southwesterly to a depth not exceeding 100 feet, located on land leased from Chicago and North Western Railway Company, which is located near the City of Baraboo, in the County of Sauk, State of Wisconsin, described as:

   Measure NorthWesterly along the center line of Lessor's Stock Yards track 60 feet from its intersection with the Northerly line of Potter Street produced Westerly. Thence SouthWesterly at right angles to a point 8.5 feet distant from the center line of said track which is the point of beginning of land to be leased. Thence North Westerly parallel with said center line of track 225 feet. Thence South Westerly at right angles 100 feet. Thence South Easterly at right angles 225 feet. Thence North Easterly at right angles 100 feet to point of beginning. Containing 22,500 square feet as shown in yellow on the blue print attached and made a part of the lease.
   Being part and parcel of Lessor's Station Grounds.

2. The personal property described on sheet 3(c) hereof located on the real estate leased from Chicago and North Western Railway Company as described above.

3. The personal property described on sheets numbered 3(a) and 3(b) hereof, which personal property is located on land located in the County of Sauk, State of Wisconsin, described as:

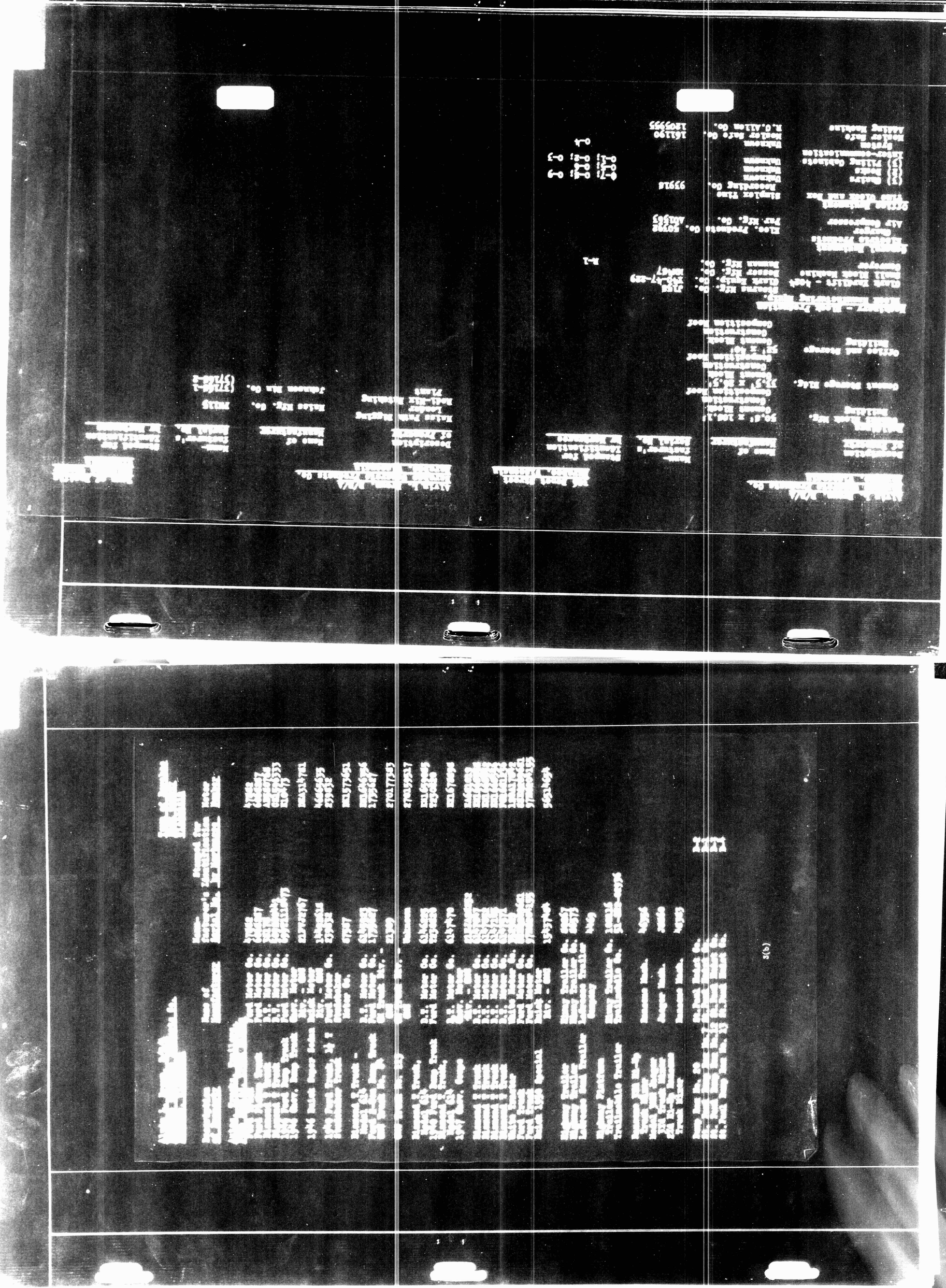
   A parcel of land in the northwest quarter of the southwest quarter of Section thirty-four, township twelve north, of range six east, bounded by a line described as follows: Commencing at the west quarter corner of said section thirty-four, thence east along the quarter line one hundred sixty-five feet to a point in the center of the highway which is also the point of beginning for the parcel hereby described: Thence continuing east along said quarter line and along the center line of highway three hundred thirty feet, thence south two hundred sixty-four feet, thence west three hundred thirty feet, thence north two hundred sixty-four feet to the point of beginning, and containing two acres, more or less.

4. The personal property described on sheet 3(d) hereof located in ~~the town of Pacific County of Columbia, State of Wisconsin.~~

[illegible] Co.

Town of Barabo
Sauk County
Wisconsin

Description of Machinery	Name of Manufacturer	Manufacturer's Serial No.	Stamped for Identification by Mortgagee	Motor Number
Farm Implements				
Tractor W/Power A.C. Bulldozer	I. H. C. Allis-Chalmers	TD18-25064 H7V-15716		
Farm Equip. - Attachments				
Unit Power Shovel	Unit Shovel Co.	47204		
Unit Power Shovel	Unit Shovel Co.	48213		
Machinery - Building Plant				
Grain Elevator	Butler Bin Co.	5711		
7 H.P. Kohler Motor for Drive Unit No. 27	Butler Bin Co.			R-3
Machinery - Sand and Gravel Plant				
Jaw Gravel Crusher	Universal	6803		
Diamond Model 23 Hydraulic Hoisting Unit	Garwood	20470		
Gasoline Power Unit No. [illegible]	G.M. Co.	47122146		
Diamond Grizzly Hopper, Plate Feeder	Diamond Eng. Works			R-5
Flexible Gravel Plant	Pioneer Eng. Works	077816-110		
Sand Dehydrater	Pioneer Eng. Works	[illegible]-115		
Gravel Washer	Pioneer Eng. Works	4218-46		
Silly	Reid Co.			R-2
Barber Greene Loader	Barber Greene Co.	82A-46-54		
General Equipment				
Welding Equipment	Lincoln Electric	1765A		
Air Compressor - Portable	Wilson & Airco			R-1
Yellow-Jacket Wilson Electric Welder	Gardner-Denver			R-4
Air Compressor - Pit	Wilson Mfg. Co.	257-6901		
Hand-Mix Plaster Mixer	Keyes Pump Co.	31752		
System Jenny Cleaner	Thiering Co.	2X26972		
Jack	Homestead Mfg. Co.			
Lubricator	Black Rock Co.			R-1
	Grayco Co.			R-5



5(b)

All other personal property of like kind, character and description.

All of the above Mortgaged Property being located in the State of Wisconsin, on the following described premises:

1. An irregular shaped building fronting approximately 134.6 feet on Chicago and North Western Railway Company's railroad tracks and extending southwesterly to a depth not exceeding 100 feet, located on land leased from Chicago and North Western Railway Company, which is located near the City of Baraboo, in the County of Sauk, State of Wisconsin, described as:

   Measure North Westerly along the center line of Lessor's Stock Yards track 60 feet from its intersection with the Northerly line of Potter Street produced Westerly. Thence South Westerly at right angles to a point 8.5 feet distant from the center line of said track which is the point of beginning of land to be leased. Thence North Westerly parallel with said center line of track 225 feet. Thence South Westerly at right angles 100 feet. Thence South Easterly at right angles 225 feet. Thence North Easterly at right angles 100 feet to point of beginning. Containing 22,500 square feet as shown in yellow on the blue print attached and made a part of the lease.
   Being part and parcel of Lessor's Station Grounds.

2. The personal property described on sheet 3(c) hereof located on the real estate leased from Chicago and North Western Railway Company as described above.

3. The personal property described on sheets numbered 3(a) and 3(b) hereof, which personal property is located on land located in the County of Sauk, State of Wisconsin, described as:

   A parcel of land in the northwest quarter of the southwest quarter of Section thirty-four, township twelve north, of range six east, bounded by a line described as follows: Commencing at the west quarter corner of said section thirty-four, thence east along the quarter line one hundred sixty-five feet to a point in the center of the highway which is also the point of beginning for the parcel hereby described: Thence continuing east along said quarter line and along the center line of highway three hundred thirty feet, thence south two hundred sixty-four feet, thence west three hundred thirty feet, thence north two hundred sixty-four feet to the point of beginning, and containing two acres, more or less.

4. The personal property described on sheet 3(d) hereof located in the town of Pacific, County of Columbia, State of Wisconsin.

All other goods and chattels of the Mortgagor, wherever located, and comprising or used in connection with the business of the Mortgagor;

All substitutions, replacements, renewals, additions or accumulations of personal property, which the Mortgagor may hereafter acquire, it being the intent of the Mortgagor to mortgage the property described in this mortgage and all additional property which the Mortgagor may, from time to time, acquire;

The business operated by the Mortgagor and the name and good will of the business of the Mortgagor and all Mortgagor's trade marks, trade names, copyrights, processes, formulas, patents, patent applications, patent rights, licenses and inventions of every kind and nature whatsoever;

All the rents, issues, income and profits of the Mortgaged Property above described.

TO HAVE AND TO HOLD the above described Mortgaged Property unto said Mortgagee, its successors and assigns, forever, for the uses and purposes herein set forth.

Provided, however, that this instrument shall be void if the Mortgagor performs the conditions herein and pays the Mortgagee, its successors or assigns, or the holder of the Note, the full amount of the Note, both principal and interest, including any renewals or extensions of the Note, together with any other indebtedness which may be owing by the Mortgagor to the Mortgagee.

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.

2. That the 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 the 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 the Mortgagor will keep the Mortgaged Property in good repair and operating condition, and will pay all taxes, 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 whatsoever, but it is understood and agreed that the Mortgagor may, at Mortgagor's option and in good faith and with reasonable diligence, contest the validity or amount of any such tax, provided Mortgagor 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, including all penalties, interest or costs that may be due or accrue thereon.

5. That the Mortgagor will not permit any landlord's lien or 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 Mortgagor, 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 the 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 Mortgagor's 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.

8. 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.

9. That the Mortgagor will not remove, or attempt to remove, any of the Mortgaged Property from the place in which it is now located, without the prior written consent of the Mortgagee, its successors or assigns, or the holder of the Note.

10. That the Mortgagor will not permit the Mortgaged Property to be levied upon under execution, attachment or distraint.

11. That the 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.

12. That the Mortgagor will pay all rent promptly as and when the same becomes due for premises leased to the Mortgagor and on which the Mortgaged Property or any part thereof is located.

13. That the Mortgagee, its successors or assigns, or the holder of the Note shall be given access to the premises on which the Mortgaged Property is situated for the purpose of inspecting the Mortgaged Property or enforcing any provision of this mortgage, or any other agreement between the parties hereto.

14. That the 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 of like character to that hereinabove described and comprising a part of or used in connection with the business of Mortgagor, in or to which Mortgagor shall, after the date hereof, acquire any right, title or interest.

15. That the 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 transfers, mortgages, pledges and/or assignments of all property of like character to that hereinabove described and comprising a part of or used in connection with the business of Mortgagor, in or to which Mortgagor shall, after the date hereof, acquire any right, title, or interest (all in form satisfactory to the Mortgagee, its successors or assigns, or the holder of the Note) and pay all expenses incident thereto.

16. That the Mortgagor will make, execute, acknowledge and deliver or cause to be made, executed, acknowledged and delivered all such further 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 mortgaging, assigning, pledging, transferring, assuring and confirming unto the Mortgagee, its successors or assigns, or the holder of the Note, the Mortgaged Property hereby mortgaged, assigned, pledged and transferred, or intended so to be, and upon request by the Mortgagee, its successors or assigns, or the holder of the Note, Mortgagor will, at any time, and from time to time, forthwith execute, acknowledge and deliver such 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.

In case of the failure of the Mortgagor, as above provided, to keep the Mortgaged Property in good repair and operating condition, to pay all taxes, to keep the Mortgaged Property free from liens of mechanics or material men, to pay rent for premises upon which the Mortgaged Property, or any part thereof, is located, or to keep Mortgagor 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, including accrued penalties, if any, at any time after said taxes shall have become due and payable, contest any and all taxes whenever, in the opinion of the Mortgagee, its successors or assigns, or the holder of the Note, such contest is necessary, pay any judgments based upon such tax levies, pay, settle or contest any lien or claim for lien of mechanics or material men filed or imposed against the Mortgaged Property, or to pay said rent, and procure such insurance as is above described. And all moneys paid for any such purpose and any other moneys disbursed by the Mortgagee, its successors or assigns, or the holder of the Note, to protect the lien of this mortgage, with interest thereon from the date of payment at the same rate per annum as is borne by the Note, shall become so much additional indebtedness secured by this mortgage, and be paid out of the rents, issues, income and profits, or out of the proceeds of the sale of the Mortgaged Property, if not otherwise paid by the Mortgagor, and it shall not be obligatory to inquire into the necessity of such repairs in advancing moneys in that behalf as above authorized, or to inquire into the validity of such taxes or judgment or sales therefor, or of liens of mechanics or material men, or of claims for said rent, or into the necessity for such insurance, but nothing herein contained shall be construed to require the Mortgagee, its successors or assigns, or the holder of the Note, or any of them, to advance or expend any money for such repairs, taxes, rent, judgments, liens of mechanics, or material men, insurance or for any other purpose.

The Mortgagor shall have the right to retain possession of the Mortgaged Property, and at Mortgagor's own expense to keep and use the same, until a default shall occur hereunder as hereinafter defined.

If the Mortgagor shall fail to observe or perform any of the covenants, conditions or obligations expressed in this mortgage, or in the Note, or if there shall be discovered by the Mortgagee, its successors or assigns, or the holder of the Note, any failure of the Mortgagor to disclose any fact deemed by the Mortgagee, its successors or assigns, or the holder of the Note, to be material in any application of the Mortgagor to the Mortgagee, its successors or assigns, or the holder of the Note, for a loan, or any extension or renewal thereof, and/or any misrepresentation by, on behalf of, or for the benefit of the Mortgagor in any application for such loan, or any extension or renewal thereof, or in any agreement, affidavit, certificate, exhibit, or instrument executed and delivered to the Mortgagee, its successors or assigns, or the holder of the Note, in connection therewith, or if the Mortgagor shall become a party to any attempt to extend, adjust, or compromise any liability of the Mortgagor, under the bankruptcy laws of the United States or otherwise, or if a petition in bankruptcy shall be filed either by or against the Mortgagor pursuant to the bankruptcy laws of the United States, or upon the making by the Mortgagor of an assignment for the benefit of Mortgagor's creditors, or if final judgment, order or decree for the payment of money shall be rendered against the Mortgagor and the Mortgagor shall not discharge the same or cause it to be discharged within ten (10) days after the rendition thereof, or shall not appeal therefrom in such manner as to preclude or conclusively set aside the execution of or levy under said judgment, order or decree, or if the Mortgagee, its successors or assigns, or the holder of the Note, shall feel itself or themselves insecure, or shall fear removal of any of the Mortgaged Property (each of which events is, for the purposes of this mortgage, hereby defined as a "default"); then in any such case, the whole of the indebtedness hereby secured, shall at once, at the option of the Mortgagee, its successors or assigns, or the holder of the Note, become immediately due and payable without notice to the Mortgagor, and the Mortgagee, its successors or assigns, or the holder of the Note, shall have the right to take

immediate possession of the Mortgaged Property, or any portion thereof, and for that purpose may pursue the same wherever it may be found, and may enter any of the premises of the Mortgagor with or without force or process of law, wherever the Mortgaged Property may be, or be supposed to be, and search for the same, and take possession of, remove, keep and store the same until sold; and sell and dispose of the said property, or any part thereof, at public auction to the highest bidder, and at any such sale the Mortgagee, its successors or assigns, are hereby authorized to employ, at its or their discretion, an auctioneer or auctioneers to conduct such sale, or at private sale, for cash or on credit, as the Mortgagee, its successors or assigns, or the holder of the Note, its or their agents or attorneys, or any of them, may elect, such public auction or private sale to be held after serving a five days' written notice upon the owner of the equity of redemption in such property so taken, if such owner resides within the county where such property is situated when so taken, and at any such sale the Mortgagee, its successors or assigns, may become the purchaser of all or any part of the Mortgaged Property, and out of the proceeds of such sale retain the amount due and unpaid upon the Note, and all costs and charges for pursuing, searching for, taking, removing, keeping, storing, advertising and selling such Mortgaged Property, together with reasonable attorneys' fees and auctioneers' charges, commissions and expenses, rendering the surplus, if any remain unto the Mortgagor.

This mortgage shall be a lien on the Mortgaged Property as security for the full amount of said indebtedness, whether the principal amount of the Note, or any part thereof, is disbursed to the Mortgagor by the Mortgagee simultaneously with the execution of this mortgage or subsequent thereto, in installments or otherwise.

If the Mortgaged Property shall be on premises leased to the Mortgagor, and the Mortgagee, its successors, or assigns, or the holder of the Note shall determine to take possession of the Mortgaged Property by virtue of the powers herein granted, the Mortgagee, its successors, or assigns, or the holder of the Note, and the lessor of said premises are hereby authorized to make such arrangements as they may see fit to make with respect to the occupancy of such premises by the Mortgagee, its successors, or assigns, or the holder of the Note, or any purchaser or purchasers of the Mortgaged Property.

All the covenants, stipulations, promises, undertakings, and agreements herein contained by or on behalf of the Mortgagor, shall bind their respective heirs, executors, administrators, successors, and assigns whether so expressed or not.

No remedy herein contained conferred upon the Mortgagee, its successors or assigns, or the holder of the Note, is intended to be exclusive of any other remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

This mortgage may be executed, acknowledged and delivered in any number of counterparts, and each of such counterparts shall be deemed to be an original mortgage.

The unenforceability or invalidity of any provision or provisions of this mortgage shall not render any other provision or provisions herein contained unenforceable or invalid.

No delay or omission of Mortgagee, its successors or assigns, or the holder of the Note, to exercise any right or power accruing upon any default as aforesaid, shall impair any such right or power or be construed as a waiver of any such default or acquiescence therein and every power and remedy given by this mortgage to Mortgagee, its successors or assigns, or the holder of the Note, may be exercised from time to time and as often as may be deemed expedient by Mortgagee, its successors or assigns, or the holder of the Note.

Mortgagor hereby waives and releases all rights of homestead exemption as to any of the Mortgaged Property.

CLM-LBE-9
Wisconsin Chattel Mortgage
(Individual)
(10-23-47)

Whenever the context hereof requires, reference herein made to the singular number shall be understood as including the plural, and likewise the plural shall be understood as denoting the singular and specific enumeration shall not exclude the general but shall be considered as cumulative.

IN WITNESS WHEREOF, A. L. Brown, individually and d/b/a Darabee Concrete Products Company, and Margaret E. Brown, his wife

have hereunto set their hands and seals on the day and year first above written; in eight (8) original counterparts.

Signed and sealed in the presence of:

A L Brown (SEAL)
A. L. Brown, Individually (SEAL)
A. L. Brown, d/b/a Darabee Concrete Products Company (SEAL)
Margaret E. Brown (SEAL)

STATE OF Illinois
Cook COUNTY } SS.

Personally came before me this 26 day of July, A.D. 1950, the above named A.L. Brown, individually and d/b/a Darabee Concrete Products Company, and Margaret E. Brown, his wife, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

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

(NOTARIAL SEAL)

My commission expires: Oct. 3, 1950

State of Wisconsin } SS.
DEPARTMENT OF STATE
Received this 27th day of JULY A. D. 19 50 at 10:00 o'clock A.M. and recorded in Vol. 43 of RAILROAD MORTGAGES on pages 312-315, incl.
Jul. Zimmerman
Assistant Secretary of State

ASSIGNMENT

THIS INDENTURE, made this 26th day of July, 1950 at Chicago, Illinois, Witnesseth:

WHEREAS, under date of February 6, 1946, A. L. Brown, doing business under the firm name of Darabee Concrete Products Company, of Darabee, Wisconsin, with his principal place of business at 306 Depot Street, Darabee, Wisconsin (hereinafter referred to as "Brown") as Lessee, entered into an Indenture of Lease, known as No. 54202, with Chicago and NorthWestern Railway Company, a Wisconsin corporation (hereinafter referred to as "Railway Company") as Lessor, under which Indenture of Lease the Railway Company demised to Brown the following described real estate situated at or near Darabee Station in the County of Sauk and State of Wisconsin on the line of the railroad of the said Lessor and described as follows, to-wit:

> Measure NorthWesterly along the center line of Lessor's Stock Yards track 60 feet from its intersection with the Northerly line of Lessor's Station property. Thence SouthWesterly at right angles to a point 8.5 feet distant from the center line of said track which is the point of beginning of land to be leased. Thence North Westerly parallel with said center line of track 225 feet. Thence NorthWesterly at right angles 100 feet. Thence SouthWesterly at right angles 225 feet. Thence North Easterly at right angles 100 feet to point of beginning. Containing 22,500 square feet as shown in yellow on the blue print attached and made a part of the lease.
> Being part and parcel of Lessor's Station Grounds,

subject to the conditions, exceptions and reservations specifically enumerated in said Indenture of Lease for a term commencing from and after November 15, 1945 and until July 1, 1961; and

WHEREAS, by extension agreement dated June 7, 1950 between Railway Company and Brown the term of said lease was extended for a period of four years to and including June 30, 1966; and

WHEREAS, there is attached to and made a part of said lease a certain addendum executed by Railway Company and Brown; and

WHEREAS, Brown is married to Margaret E. Brown, who joins in this Assignment as his wife; and

WHEREAS, Brown has heretofore made application to Reconstruction Finance Corporation (hereinafter referred to as "RFC") for a loan in the aggregate sum of $60,000.00, which loan has been conditionally approved by RFC; and

WHEREAS, said loan will be evidenced by a note executed and delivered by Brown to RFC in the aggregate principle amount of $60,000.00, bearing interest at 4% per annum on unpaid principal outstanding from time to time, 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 of the making of the said loan, or any part thereof, by RFC to Brown, is the assignment by Brown to RFC of his interest in said Lease as collateral security for the indebtedness to be evidenced by the Note;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, receipt of which is hereby acknowledged, and as an inducement to RFC to make disbursement of said loan, or any part thereof, the undersigned, Brown, and Margaret E. Brown, his wife, does hereby convey, assign, transfer and set over unto RFC, all their right, title, and interest

"EXTENSION AGREEMENT"

No 6012A (S)

It is mutually covenanted and agreed by the undersigned, parties to the foregoing lease, dated 6th day of February, 1946, that the term of said lease is hereby extended for the period of Four (4) years to-wit, to and including the 5th day of June, 19 50, all the terms, conditions, covenants and agreements of said lease, including the right to terminate upon thirty (30) days' notice, to continue to inure to and to bind the respective parties hereto and their heirs, administrators, executors, lessees, successors or assigns, for such extended term.

Dated June 5, 19 50

CHICAGO AND NORTH WESTERN RAILWAY COMPANY.

By R F Miller
C R F MILLER Land and Tax Commissioner (Seal)

Signed, Sealed and Delivered in the Presence of
H W Krueger
Colleen Rooney

(Seal)

(Seal)

A. L. BROWN (Seal)

"EXTENSION AGREEMENT"

It is mutually covenanted and agreed by the undersigned, parties to the foregoing lease, dated ..... day of ....., that the term of said lease is hereby extended for the period of ..... to-wit, to and including the ..... day of ....., 19....., all the terms, conditions, covenants and agreements of said lease, including the right to terminate upon thirty (30) days' notice, to continue to inure to and to bind the respective parties hereto and their heirs, administrators, executors, lessees, successors or assigns, for such extended term.

Dated ....., 19.....

CHICAGO AND NORTH WESTERN RAILWAY COMPANY.

By .....

Signed, Sealed and Delivered in the Presence of

(Seal)

(Seal)

(Seal)

(Seal)

C. & N. W. RY. MADISON DIV.
OFFICE OF DIVISION ENGINEER
LOCATION Baraboo, Wis.
Baraboo Concrete Products Co.
Scale..... Date.....

①

ADDENDUM ATTACHED TO AND MADE A PART OF LEASE NO. 54202, DATED FEBRUARY 6, 1946 FROM CHICAGO AND NORTH WESTERN RAILWAY COMPANY, AS LESSOR, TO A. L. BROWN, DOING BUSINESS UNDER THE FIRM NAME OF BARABOO CONCRETE PRODUCTS COMPANY, AS LESSEE, LEASING CERTAIN PROPERTY SITUATED AT OR NEAR BARABOO STATION, IN THE COUNTY OF SAUK AND STATE OF 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 Reconstruction Finance Corporation after receipt of notice that the leasehold has been mortgaged or assigned to the latter, 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 sixty (60) days following receipt of such notice, then and in that event lessor shall not have the right to terminate the lease pursuant to such notice.

(6) 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.

(7) Except as provided in paragraph (5) of this addendum, the lessor may terminate this lease at any time upon giving lessee sixty (60) days' written notice.

(8) Lessee may terminate this lease at any time upon giving lessor sixty (60) days' written notice.

(9) Copies of all notices required or permitted to be served upon the lessee by the lessor, pursuant to the terms and provisions of this lease, shall be sent to Reconstruction Finance Corporation at 208 South LaSalle Street, Chicago, Illinois.

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

By R. A. Miller
LAND & TAX COMMISSIONER

A. L. Brown
A. L. BROWN, d/b/a
BARABOO CONCRETE PRODUCTS COMPANY

State of Wisconsin)
DEPARTMENT OF STATE) ss.
Received this 18th day of
AUGUST A. D. 19 50 at 10:00
o'clock A.M. and recorded in Vol.
43 of RAILROAD MORTGAGES
on pages 318-321, incl.
Secretary of State

THIS AGREEMENT, made as of August 15, 1950, by and between NORTHWESTERN IMPROVEMENT COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Delaware, hereinafter sometimes called "Vendor" and sometimes called "Northwestern", party of the first part, and NORTHERN PACIFIC RAILWAY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Wisconsin, hereinafter called "Vendee", party of the second part,

WITNESSETH:

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

1. Northwestern will construct, sell and deliver four hundred thirty (430) all-steel box cars as hereinafter described and collectively sometimes called "box cars" and fifty (50) all-steel cabooses as hereinafter described and collectively sometimes called "cabooses", said box cars and said cabooses being collectively sometimes called "cars", and the Vendee will accept and purchase said cars subject to the terms and conditions of this agreement. Northwestern will deliver said cars 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 Northwestern in accordance with the provisions hereof. Said cars shall be delivered from time to time as completed to Vendee FOB the tracks of the Vendee at Brainerd, Minnesota.

Said cars shall be constructed in accordance with specifications prepared by the Vendee and modifications thereof mutually agreed upon from time to time. The description and road numbers of the cars are as follows:

No. of Units	Description of Equipment	Estimated Cost per Car	Road Numbers
430	50 foot 6 inch all-steel box cars	$5,000	31070 to 31499 inclusive
50	30 foot all-steel cupola type cabooses	6,500	1000 to 1049 inclusive

The total estimated cost of all cars covered by this agreement is the sum of $2,490,000.

Northwestern will give the Vendee full opportunity to inspect said cars during the construction thereof. On completion of each car, the Vendee will arrange for final

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CONDITIONAL SALE AGREEMENT

BETWEEN

NORTHWESTERN IMPROVEMENT COMPANY

AND

NORTHERN PACIFIC RAILWAY COMPANY

DATED AS OF AUGUST 15, 1950

Inspection thereof and will have its inspector execute in quadruplicate the usual form of certificate of inspection covering all cars found to be completed in accordance with the plans and specifications. Each such certificate with respect to the cars covered thereby shall be final and conclusive evidence that such cars conform in workmanship, material 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 cars by a duly authorized agent upon arrival thereof at the designated place of delivery.

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

(a) Upon delivery and acceptance of each box car and receipt of invoice therefor, an amount equal to the excess of the actual cost thereof to Northwestern, as finally determined, over the amount of $4,516.

(b) Upon delivery and acceptance of each cabboose and receipt of invoice therefor, an amount equal to the excess of the actual cost thereof to Northwestern, as finally determined, over the amount of $6,145.20.

(c) The remaining sum of $2,250,000 of the total purchase price together with interest at the rate of two and nine hundredths per centum (2.09%) per annum from August 15, 1950, on the balances thereof from time to time remaining unpaid in ninety-six (96) equal monthly instalments of $25,471.93 each on the 15th day of each month commencing September 15, 1950. The schedule of payments to be made by the Vendee showing the amounts and dates of instalment payments, the amount thereof applicable to the payment of interest due as of each such payment date, the amount applied on principal, and the balance of said $2,250,000 remaining unpaid after the crediting of the amount applied on principal on such payment date is as shown in schedule marked "Exhibit 1", attached hereto and hereby made a part hereof. The obligation of the Vendee to make payments in accordance with the provisions of this subparagraph shall continue until all instalments have been paid in accordance with the schedule marked "Exhibit 1".

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

All payments by the Vendee hereunder shall be free of expense to the Vendor for collection or other charges, and deductions shall be made therefrom of the amount of any Federal, state or other taxes, assessments or governmental charges hereafter levied or imposed upon said cars, or 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 cars, 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 cars, 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 cars described herein in accordance with the terms of an assignment in the form marked "Exhibit 2" attached hereto, and hereby made a part hereof. Upon the request of such purchaser, the Vendor shall forthwith execute said assignment, which shall appropriately describe the purchaser and have inserted therein the road numbers of said cars and the annual rate of interest which on the unpaid balances of the purchase price shall bear under subparagraph (c) of Section 2 hereof.

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 subparagraph (c) of Section 2 may be assigned by the purchaser and reassigned by any assignee from time to time. Neither the original nor any subsequent assignment shall subject any assignee to or relieve Northwestern from any of Northwestern's obligations as to the construction or delivery of the cars or as to any warranty with respect thereto contained in Section 1 hereof, or relieve the Vendee from its obligation to Northwestern 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 the Vendee, stating the identity and post office address of the Assignee, and such Assignee shall by virtue of such assignment acquire all of the Vendor's right, title and interest in and to the said cars 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, set-off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of Northwestern in respect of the manufacture or delivery of the cars described herein or in respect of any warranty in Section 1 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 Northwestern. Any and all such obligations howsoever arising shall be and remain enforceable by the Vendee against and only against Northwestern and shall not be enforceable against any party or parties in whom title to the cars 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, Northwestern, 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 "Northwestern" 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 property and business.

4. The Vendee agrees to indemnify and save Vendor harmless from any and all liabilities, damages, claims, suits, judgments and costs that may arise from the use of any patented article that may be used as a part of the said cars.

Immediate notice in writing shall be given by Northwestern to the Vendee of any claim of patent infringement presented to it with respect to the said cars, and the Vendee 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 cars 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 cars may be located, or which shall have jurisdiction over said cars or any part thereof, and the Vendee agrees at all times to keep said cars 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 cars 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 cars may be operated, covering the use, operation or maintenance of said cars, and with the lawful rules with respect to said cars, of the Interstate Commerce Commission, and of every other legislative, administrative or judicial body exercising any power or jurisdiction over said cars; and in the event that the said laws or rules require any alterations of any of said cars, or any additional equipment or appliances thereon, the Vendee shall conform thereunto at its own expense and shall maintain said cars in proper condition for operation under such laws and rules during the life of this agreement.

6. The Vendor shall retain full legal title to and property in all said cars 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 cars to and the possession and use thereof by the Vendee as herein provided. Any and all replacements of parts of said cars or additional equipment or facilities installed thereon or therein shall constitute accessions to said cars, the title to which shall 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 cars, 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 cars 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 cars 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 cars in good order and proper running repair and in case of damage thereto by fire, accident or otherwise shall promptly repair the cars so damaged and restore them to good running order. In case any cars shall be damaged beyond repair or lost or destroyed, the Vendee shall promptly replace such car with another car 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 car 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 cars, 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 car with reasonable promptness or to pay for such car 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 cars as herein provided.

At all times, while this agreement shall be in force, the Vendee at its own expense, shall keep the cars covered by this agreement insured under its blanket insurance policy against damage or destruction by fire, in the same manner and extent as others of its cars. The Vendee shall furnish evidence of such insurance satisfactory to the Vendor. In case the Vendee shall fail to keep said cars so insured, or furnish evidence of such insurance satisfactory to Vendor, Vendor may insure said cars, and in this event Vendee shall be obligated to repay Vendor the amount of premiums paid therefor with interest thereon at the legal rate from the time of such payment

until repaid. All amounts payable under any such policy of insurance, in respect of any such car, but not exceeding the unpaid balance of the purchase price of such car, 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 cars 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 cars.

8. Before delivery of said cars to the Vendee, the Vendor will fasten upon each side of each car, a metal plate bearing the following words, or will mark upon each side of each such car the following words in letters not less than one inch in height, "J. P. Morgan & Co. Incorporated, owner by assignment from Northwestern Improvement Company, manufacturer and prior owner." Such plates or markings will be so located as to be readily visible and to indicate plainly the Vendor's ownership of said cars. 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 cars.

Said cars may be lettered "Northern Pacific Railway", "Northern Pacific," or "N. P. Ry. Co." or in some other appropriate manner, as the Vendee may desire, and may be numbered for convenience in identification; but the Vendee, during the continuance of this agreement, will not allow the name of any corporation or other party to be placed on any of said cars, in such manner that such name or designation might be interpreted as a claim of ownership thereof by any person, association or corporation other than 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 cars or any thereof. Any change in the lettering or numbering of any of said cars 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 recorded in such office or offices as the Vendor shall direct.

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

In the event of a transfer or assignment (other than the assignment contemplated in the first paragraph of Section 3 hereof), or successive transfers or assignments by the Vendor or its assignees of title to said cars 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 or other markings on all said cars to indicate the title of such transferee or assignee to such cars and its succession to the rights of the Vendor hereunder, but the expense of making such change in plates or other markings shall be borne by the party or parties requesting such change.

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 cars 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 cars 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 cars, as herein provided, and shall remain in default for more than thirty (30) days after such payment shall have become due, or shall be in default under the provisions of Sections 11 or 12 hereof; or shall fail or refuse to comply with any other of the terms and covenants in this agreement on its part to be kept and performed, or to make provisions satisfactory to Vendor for such compliance, and any such failure or refusal, other than a default under Section 11 hereof, or a default in the payment of a monthly installment hereunder, shall continue for more than thirty (30) days after notice in writing thereof to the Vendee, then in any such case (herein sometimes called events of default) and at any time thereafter during the continuance of such default the Vendor, without further

notice or demand except to the extent necessary in order to comply with any legal requirements then in force and applicable to such action by the Vendor, may declare the entire unpaid balance of the purchase price of the cars immediately due and payable, without further demand, together with interest thereon at the annual rate as set forth in Section 2 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 cars 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 cars, 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 cars 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 process of 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 cars 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 cars or any thereof, and all replacements thereof, and all improvements, equipment, attachments and accessories placed thereon, free from any and all claims of the Vendee, or of any other party claiming by, through or under it at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine, all subject to and in compliance with any legal requirements then in force and applicable to such sale. To the extent permitted by any such legal requirements, any sale or sales hereunder may be held or conducted at such location and at such time or times as the Vendor may fix, in one lot and as an entirety or in separate lots, and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine in compliance with any such legal requirements, provided that written notice of such sale shall be given to the Vendee at least ten (10) days prior thereto, by telegram or registered mail addressed to the Vendee at its office in St. Paul, Minnesota, or such other notice, if any, as may be necessary to comply with any such legal requirements. If such sale shall be a private sale permitted by such legal requirements, it shall be subject to the right of the Vendee to purchase or provide a purchaser, within ten (10) days after notice of the proposed sale price, at the same or better price as offered to such sale, the Vendor may itself bid for and become the purchaser of said cars, 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 cars, 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 of 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 demand immediate time to remove the same therefrom, take possession of said cars 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 cars or any thereof without the Vendor's written consent first had and obtained, and shall not cause nor permit any of said cars to be pledged or hold for any debt or obligation owing by the Vendee or said cars or any thereof to be in any manner encumbered, and shall not suffer the said cars or any thereof to pass out of the Vendee's control, except in the usual interchange of traffic with connecting and other railroads.

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

14. If any provision of this agreement is prohibited by any applicable law of any state or country, or by any applicable law of any state or country this agreement is converted into any instrument other than an agreement of conditional sale, the remaining provisions of this agreement shall remain in full force and effect in such state or country and this agreement shall remain in full force and effect as an agreement of conditional sale in all other states and countries in which it is filed or recorded 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 cars 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. The Vendee shall deliver to the Vendor an opinion of counsel that this agreement has been filed, registered, deposited, and recorded wherever required for the proper protection of the Vendor's title to said cars and any proper protection of the Vendor's and all its rights under this Agreement. The recorded counterparts, or satisfactory evidence of recordation, shall upon the request of any assignee of the Vendor be deposited with such assignee.

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

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

19. So long as the Vendee shall not be in default under this agreement it shall be entitled to the possession of said cars 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 traffic, but subject at all times and

therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

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

G. T. C. PETERSON
Notary Public, Ramsey County, Minn.
My Commission expires Oct. 21, 1956

EXHIBIT 1

SCHEDULE OF PAYMENTS

Payment No.	Date	Monthly Installments	Interest	Applied On Principal	Balance Due
1	Sep. 15, 1950	25,471.93	3,918.76	21,553.17	2,228,446.83
2	Oct. 15, 1950	25,471.93	3,881.22	21,590.71	2,206,856.12
3	Nov. 15, 1950	25,471.93	3,843.62	21,628.31	2,185,227.81
4	Dec. 15, 1950	25,471.93	3,805.95	21,665.98	2,163,561.83
5	Jan. 15, 1951	25,471.93	3,768.21	21,703.72	2,141,858.11
6	Feb. 15, 1951	25,471.93	3,730.41	21,741.52	2,120,116.59
7	Mar. 15, 1951	25,471.93	3,692.54	21,779.39	2,098,337.20
8	Apr. 15, 1951	25,471.93	3,654.61	21,817.32	2,076,519.88
9	May 15, 1951	25,471.93	3,616.61	21,855.32	2,054,664.56
10	June 15, 1951	25,471.93	3,578.55	21,893.38	2,032,771.18
11	July 15, 1951	25,471.93	3,540.42	21,931.51	2,010,839.67
12	Aug. 15, 1951	25,471.93	3,502.22	21,969.71	1,988,869.96
13	Sep. 15, 1951	25,471.93	3,463.96	22,007.97	1,966,861.99
14	Oct. 15, 1951	25,471.93	3,425.62	22,046.31	1,944,815.68
15	Nov. 15, 1951	25,471.93	3,387.23	22,084.70	1,922,730.98
16	Dec. 15, 1951	25,471.93	3,348.76	22,123.17	1,900,607.81
17	Jan. 15, 1952	25,471.93	3,310.23	22,161.70	1,878,446.11
18	Feb. 15, 1952	25,471.93	3,271.63	22,200.30	1,856,245.81
19	Mar. 15, 1952	25,471.93	3,232.97	22,238.96	1,834,006.85
20	Apr. 15, 1952	25,471.93	3,194.23	22,277.70	1,811,729.15
21	May 15, 1952	25,471.93	3,155.43	22,316.50	1,789,412.65
22	June 15, 1952	25,471.93	3,116.57	22,355.36	1,767,057.29
23	July 15, 1952	25,471.93	3,077.63	22,394.30	1,744,662.99
24	Aug. 15, 1952	25,471.93	3,038.63	22,433.30	1,722,229.69
25	Sep. 15, 1952	25,471.93	2,999.56	22,472.37	1,699,757.32
26	Oct. 15, 1952	25,471.93	2,960.42	22,511.51	1,677,245.81
27	Nov. 15, 1952	25,471.93	2,921.21	22,550.72	1,654,695.09
28	Dec. 15, 1952	25,471.93	2,881.93	22,590.00	1,632,105.09
29	Jan. 15, 1953	25,471.93	2,842.59	22,629.34	1,609,475.75
30	Feb. 15, 1953	25,471.93	2,803.18	22,668.75	1,586,807.00
31	Mar. 15, 1953	25,471.93	2,763.69	22,708.24	1,564,098.76
32	Apr. 15, 1953	25,471.93	2,724.14	22,747.79	1,541,350.97
33	May 15, 1953	25,471.93	2,684.52	22,787.41	1,518,563.56
34	June 15, 1953	25,471.93	2,644.84	22,827.09	1,495,736.47
35	July 15, 1953	25,471.93	2,605.08	22,866.85	1,472,869.62
36	Aug. 15, 1953	25,471.93	2,565.25	22,906.68	1,449,962.94
37	Sep. 15, 1953	25,471.93	2,525.36	22,946.59	1,427,016.35
38	Oct. 15, 1953	25,471.93	2,485.39	22,986.54	1,404,029.81
39	Nov. 15, 1953	25,471.93	2,445.36	23,026.57	1,381,003.24
40	Dec. 15, 1953	25,471.93	2,405.25	23,066.68	1,357,936.56
41	Jan. 15, 1954	25,471.93	2,365.08	23,106.85	1,334,829.71

Payment No.	Date	Monthly Installments	Interest	Applied On Principal	Balance Due
42	Feb. 15, 1954	25,471.93	2,324.83	23,147.10	1,311,682.61
43	Mar. 15, 1954	25,471.93	2,284.52	23,187.41	1,288,495.20
44	Apr. 15, 1954	25,471.93	2,244.13	23,227.80	1,265,267.40
45	May 15, 1954	25,471.93	2,203.68	23,268.25	1,241,999.15
46	June 15, 1954	25,471.93	2,163.15	23,308.78	1,218,690.37
47	July 15, 1954	25,471.93	2,122.56	23,349.37	1,195,341.00
48	Aug. 15, 1954	25,471.93	2,081.89	23,390.04	1,171,950.96
49	Sep. 15, 1954	25,471.93	2,041.15	23,430.78	1,148,520.18
50	Oct. 15, 1954	25,471.93	2,000.34	23,471.59	1,125,048.59
51	Nov. 15, 1954	25,471.93	1,959.46	23,512.47	1,101,536.12
52	Dec. 15, 1954	25,471.93	1,918.51	23,553.42	1,077,982.70
53	Jan. 15, 1955	25,471.93	1,877.49	23,594.44	1,054,388.26
54	Feb. 15, 1955	25,471.93	1,836.40	23,635.53	1,030,752.73
55	Mar. 15, 1955	25,471.93	1,795.23	23,676.70	1,007,076.03
56	Apr. 15, 1955	25,471.93	1,753.99	23,717.94	983,358.09
57	May 15, 1955	25,471.93	1,712.69	23,759.24	959,598.85
58	June 15, 1955	25,471.93	1,671.30	23,800.63	935,798.22
59	July 15, 1955	25,471.93	1,629.85	23,842.08	911,956.14
60	Aug. 15, 1955	25,471.93	1,588.33	23,883.60	888,072.54
61	Sep. 15, 1955	25,471.93	1,546.73	23,925.20	864,147.34
62	Oct. 15, 1955	25,471.93	1,505.06	23,966.87	840,180.47
63	Nov. 15, 1955	25,471.93	1,463.32	24,008.61	816,171.86
64	Dec. 15, 1955	25,471.93	1,421.50	24,050.43	792,121.43
65	Jan. 15, 1956	25,471.93	1,379.61	24,092.32	768,029.11
66	Feb. 15, 1956	25,471.93	1,337.65	24,134.28	743,894.83
67	Mar. 15, 1956	25,471.93	1,295.62	24,176.31	719,718.52
68	Apr. 15, 1956	25,471.93	1,253.51	24,218.42	695,500.10
69	May 15, 1956	25,471.93	1,211.33	24,260.60	671,239.50
70	June 15, 1956	25,471.93	1,169.08	24,302.85	646,936.65
71	July 15, 1956	25,471.93	1,126.75	24,345.18	622,591.47
72	Aug. 15, 1956	25,471.93	1,084.35	24,387.58	598,203.89
73	Sep. 15, 1956	25,471.93	1,041.87	24,430.06	573,773.83
74	Oct. 15, 1956	25,471.93	999.32	24,472.61	549,301.22
75	Nov. 15, 1956	25,471.93	956.70	24,515.23	524,785.99
76	Dec. 15, 1956	25,471.93	914.00	24,557.93	500,228.06
77	Jan. 15, 1957	25,471.93	871.23	24,600.70	475,627.36
78	Feb. 15, 1957	25,471.93	828.39	24,643.54	450,983.82
79	Mar. 15, 1957	25,471.93	785.46	24,686.47	426,297.35
80	Apr. 15, 1957	25,471.93	742.47	24,729.46	401,567.89
81	May 15, 1957	25,471.93	699.40	24,772.53	376,795.36
82	June 15, 1957	25,471.93	656.25	24,815.68	351,979.68
83	July 15, 1957	25,471.93	613.03	24,858.90	327,120.78
84	Aug. 15, 1957	25,471.93	569.74	24,902.19	302,218.59
85	Sep. 15, 1957	25,471.93	526.37	24,945.56	277,273.03
86	Oct. 15, 1957	25,471.93	482.92	24,989.01	252,284.02
87	Nov. 15, 1957	25,471.93	439.40	25,032.53	227,251.49
88	Dec. 15, 1957	25,471.93	395.80	25,076.13	202,175.36
89	Jan. 15, 1958	25,471.93	352.12	25,119.81	177,055.55

Payment No.	Date	Monthly Installments	Interest	Applied On Principal	Balance Due
90	Feb. 15, 1958	25,471.93	308.37	25,163.56	151,891.99
91	Mar. 15, 1958	25,471.93	264.55	25,207.38	126,684.61
92	Apr. 15, 1958	25,471.93	220.64	25,251.29	101,433.32
93	May 15, 1958	25,471.93	176.66	25,295.27	76,138.05
94	June 15, 1958	25,471.93	132.61	25,339.32	50,798.73
95	July 15, 1958	25,471.93	88.47	25,383.46	25,415.27
96	Aug. 15, 1958	25,459.54	44.27	25,415.27	0

EXHIBIT 2

ASSIGNMENT

OF

CONDITIONAL SALE AGREEMENT

BETWEEN

NORTHWESTERN IMPROVEMENT COMPANY

AND

NORTHERN PACIFIC RAILWAY COMPANY

TO

J. P. MORGAN & CO., INCORPORATED

EXHIBIT 2

AGREEMENT dated as of August 15, 1950, between NORTHWESTERN IMPROVEMENT COMPANY, a corporation of the State of Delaware, hereinafter called the "Manufacturer", party of the first part, and J. P. MORGAN & CO. INCORPORATED, a corporation, with its principal place of business at New York City, New York, hereinafter called the "Bank", party of the second part, and NORTHERN PACIFIC RAILWAY COMPANY, a corporation of the State of Wisconsin, hereinafter referred to as "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 15, 1950, covering the construction, sale and delivery of four hundred thirty (430) all-steel box cars, hereinafter sometimes called "box cars", and fifty (50) all-steel cabooses, hereinafter sometimes called "cabooses", said box cars and said cabooses being together collectively sometimes called "cars", the description and road numbers thereof being as follows:

No. of Units	Description of Equipment	Estimated Cost per Car	Road Numbers
430	50 foot 6 inch all-steel box cars	$5,000	31070 to 31499 inclusive
50	30 foot all-steel cupola-type cabooses	6,800	1000 to 1049 inclusive

The total estimated cost of all cars covered by this agreement is the sum of $2,490,000.

WHEREAS, after the payments to be made by the Railroad to the Manufacturer under subparagraphs (a) and (b) in Section 2 of said Agreement have been made, there will be a balance of $2,250,000 payable by the Railroad to the Manufacturer on account of the purchase of said cars under subparagraph (c) of 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 cars from and after the delivery to, and acceptance thereof by, the Railroad, including the right to receive the payments provided for in said Agreement, and the right of assignment as provided by Section 3 of said Agreement, and subject to the provisions thereof, together with all the rights and subject to all the obligations in respect thereof set forth in the said Agreement as applying to the Manufacturer (Vendor) thereunder as therein defined, without any recourse, however, against the Manufacturer for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the said Agreement; provided, however, that this assignment shall not pass to the Bank the right to receive any of the payments to be made by the Railroad under subparagraphs (a) and (b) 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 property and business, in respect of its obligations to construct and deliver the cars, or as to any warranty with respect thereto, contained in Section 1 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 cars shall be and remain enforceable by the Railroad, its successors and assigns, against and only against the Manufacturer, and any successor or successors to all or substantially all of its property and business, as in said Agreement provided. Without hereby limiting the generality of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Bank to sue for, collect and receive, in its own name, but at the expense and liability and for the sole benefit of the Bank, all sums payable, and likewise to enforce any and all action to be taken by the Railroad under said Agreement in respect of the cars 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 the amount of $4,518.00 for each box car, and the amount of $6,145.20 for each caboose, promptly upon receipt of the following documents in form and substance satisfactory to it:

(a) A Bill of Sale from the Manufacturer to the Bank transferring to the Bank title to such box car or caboose so delivered and accepted, and warranting said title to be free and clear of all liens and encumbrances of any nature except only the rights of the Railroad under the Agreement;

(b) A certificate of acceptance, signed by an authorized representative of the Railroad, stating that the box car or caboose covered by such certificate has been delivered to the Railroad and accepted by him on behalf of the Railroad as conforming in all respects to the requirements and provisions of the Agreement, and further stating in the certificate or in a separate certificate that there was plainly, distinctly, permanently and conspicuously fastened or placed on each side of the equipment at the time of its delivery a plate or other marking bearing or containing the following inscription:

"J. P. Morgan & Co. Incorporated,
owner by assignment from Northwestern
Improvement Company, manufacturer and
prior owner";

(c) A duplicate of the Manufacturer's invoice covering the box car or caboose so accepted.

The amounts to be so paid by the Bank to the Manufacturer will aggregate not more than $2,250,000.

3. The Railroad agrees to pay to the Bank interest at the rate of two and nine hundredths per cent (2.09%) per annum, at the times and under the conditions provided in subparagraph (c) of Section 2 of said Agreement from the fifteenth day of August, 1950.

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 cars 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 subparagraph (c) of Section 2 of said Agreement shall be reduced by the amount hereinabove in Section 2 shown for any such undelivered car 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 cars and rights under said Agreement sold, assigned, transferred and set over, or intended to be sold, assigned, transferred and set over, to the Bank by this assignment; that the same are free from all liens or encumbrances; that the Manufacturer has good and lawful right to sell the same as aforesaid, and that the Manufacturer will warrant and defend the same against the lawful demands of all persons whomsoever based on claims originating prior to the delivery of the said cars by the Manufacturer; all subject, however, to the provisions of the aforesaid Agreement, and the rights of the Railroad thereunder.

5. The Manufacturer covenants and agrees with the Bank, its successors and assigns, that, in any suit or action brought by the Bank under said Agreement for any installment of the purchase price, or any part thereof, or to enforce any provisions of said Agreement, the Manufacturer will save, indemnify and keep harmless the Bank from and against all expense, loss or damage suffered by reason of any defense, setoff or counterclaim of the Railroad arising out of a breach by the Manufacturer, or any successor or successors to its property and business, of any of the Manufacturer's obligations respecting said cars under the terms and conditions of said Agreement, or arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Manufacturer or successor or successors; provided, the Manufacturer or such successor is given due notice of such defense, setoff or counterclaim, and reasonable opportunity to defend against the same. The Manufacturer agrees to save, indemnify and keep harmless the Bank from and against any and all royalties, damages, claims, suits, judgments and costs that may arise from the use of any patented article.

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.

NORTHWESTERN IMPROVEMENT COMPANY

By _____
Vice President

Attest:

_____
Secretary

Signed, sealed and delivered
in the presence of:

_____

_____
Witnesses

J. P. MORGAN & CO. INCORPORATED

By _____
Vice President

Attest:

_____
Assistant Secretary

Signed, sealed and delivered
in the presence of:

_____

_____
Witnesses

NORTHERN PACIFIC RAILWAY COMPANY

By _____
Vice President

Attest:

_____
Secretary

Signed, sealed and delivered
in the presence of:

_____

_____
Witnesses

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

I, G. T. C. PETERSON, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn, and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 14th day of August, A. D. 1950, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such as to Northwestern Improvement Company to the within and foregoing instrument, J. H. Poore and A. M. Gottschald, each to me personally known and known to me to be, respectively, 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 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 the said J. H. Poore resides at 1495 Goodrich, in the City of St. Paul, State of Minnesota, and that the said A. M. Gottschald resides at 929 Arlington Avenue West in the City of St. Paul, State of Minnesota; that 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 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 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 said County of Ramsey, State of Minnesota, this the day and year in this my certificate first above written.

G. T. C. PETERSON
Notary Public, Ramsey County, Minn.
My Commission expires Oct. 21, 1956.

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

I, G. T. C. PETERSON, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn, and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 14th day of August, A. D. 1950, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such as to Northern Pacific Railway Company to the within and foregoing instrument, J. H. Poore and A. M. Gottschald, each to me personally known and known to me to be, respectively, Vice President and 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 Secretary respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said J. H. Poore and 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 the said J. H. Poore resides at 1495 Goodrich in the City of St. Paul, State of Minnesota, and that the said A. M. Gottschald resides at 929 Arlington Avenue West in the City of St. Paul, State of Minnesota; that said J. H. Poore is Vice President and said A. M. Gottschald is Secretary of Northern Pacific Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said J. H. Poore and 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 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 said County of Ramsey, State of Minnesota, this the day and year in this my certificate first above written.

G. T. C. PETERSON
Notary Public, Ramsey County, Minn.
My Commission expires Oct. 21, 1956

STATE OF NEW YORK)
) ss
COUNTY OF NEW YORK)

I, Edward Strom, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgements and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 18TH day of August, A. D. 1950, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such as to J. P. Morgan & Co. Incorporated to the within and foregoing instrument, John M. Meyer, Jr., and William L. Carson, each to me personally known and known to me to be respectively Vice President and Assistant Secretary of J. P. Morgan & Co. Incorporated, one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said John M. Meyer, Jr., and William L. Carson, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said John M. Meyer, Jr., resides at Spur Road, in Greenwich, Connecticut, and that the said William L. Carson resides at 150-16 Tenth Avenue in Whitestone, New York; that said John M. Meyer, Jr, is Vice President and said William L. Carson is Assistant Secretary of J. P. Morgan & Co. Incorporated, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said John M. Meyer, Jr., and William L. Carson, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Secretary in behalf of said corporation by like authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act

and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

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

Edward L. Mon

Notary Public,
My Commission expires

EDWARD L. MON
NOTARY PUBLIC, State of New York
No. 24-7666600
Qualified in Kings County
Ctfs. filed in Kings, N. Y., Queens, Bronx Cos. Clks. and Regs. and in [illegible] and Westchester Cos.
Term Expires March [illegible], 19[illegible]

State of Wisconsin } ss.
DEPARTMENT OF STATE

Received this 25th *day of* AUGUST *A. D. 19*50 *at* 10:00 *o'clock* A *M. and recorded in Vol.* 43 *of* RAILROAD MORTGAGES *on page* 322-339, incl.

[illegible]
Secretary of State

Third Supplemental Indenture

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

TO

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK

AND

GEORGE E. PORTER
TRUSTEES

DATED AS OF FEBRUARY 1, 1950

SUPPLEMENTAL TO FIRST AND REFUNDING MORTGAGE
DATED FEBRUARY 1, 1921

LINCOLN PRINTING COMPANY, CHICAGO—WA BASH 2-4004

THIS THIRD SUPPLEMENTAL INDENTURE, dated as of February 1, 1950, between CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, a corporation created and existing under the laws of the State of Illinois, hereinafter called the "Railroad Company", party of the first part, and THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, a corporation created and existing under the laws of the United States of America, hereinafter called the "Corporate Trustee" and GEORGE E. PORTER, a citizen of the State of Missouri, hereinafter called the "Individual Trustee", the Corporate Trustee and the Individual Trustee, collectively, being hereinafter called the "Trustees", parties of the second part.

WHEREAS, a certain First and Refunding Mortgage dated February 1, 1921, hereinafter called the "Mortgage", has been heretofore executed and acknowledged by the Railroad Company, the Corporate Trustee, and Frazier L. Ford, as Individual Trustee, and said George E. Porter has been duly appointed successor Individual Trustee; and

WHEREAS, the Railroad Company and the Trustees entered into a Supplemental Indenture to the Mortgage, dated as of August 1, 1944, evidencing the terms and provisions, including redemption and sinking fund provisions, of the series of bonds issued under the Mortgage known as the Series of 1974, $40,000,000 principal amount of which were issued; and

WHEREAS, the Railroad Company and the Trustees entered into a Supplemental Indenture to the Mortgage, dated as of August 1, 1945, evidencing the terms and provisions, including redemption and sinking fund provisions, of the series of bonds issued under the Mortgage known as the Series of 1985 Bonds, $65,000,000 principal amount of which were issued; and

WHEREAS, the Railroad Company and the Trustees entered into a Second Supplemental Indenture to the Mortgage, dated as of August 1, 1945, evidencing the terms and provisions, including redemption and sinking fund provisions, of the series of bonds issued under the Mort-

gage known as the Series of 1970 Bonds, $49,765,000 principal amount of which were issued; and

WHEREAS, the Railroad Company has by proper corporate action authorized the issuance and sale of an additional series of bonds under said Mortgage to be known as its First and Refunding Mortgage Series of 1990 3% Bonds, due February 1, 1990, hereinafter referred to as the "Series of 1990 3% Bonds" in the principal amount of $25,000,000; and

WHEREAS, Article Eleven of the Mortgage provides that the Railroad Company, when authorized by resolution of its Board of Directors, and the Trustees, from time to time and at any time, may enter into an indenture supplemental thereto and which thereafter shall form a part thereof and be binding upon the holders of all bonds then outstanding or which may thereafter be outstanding thereunder, for purposes necessary or desirable and not inconsistent with the Mortgage; and

WHEREAS, the Series of 1990 3% Bonds are to be entitled to the benefits of a sinking fund as hereinafter provided; and

WHEREAS, the Railroad Company desires, by this Supplemental Indenture, to evidence the terms and provisions, including redemption and sinking fund provisions, as determined by its Board of Directors, of the Series of 1990 3% Bonds, all as more fully herein set forth; and

WHEREAS, all acts and things prescribed by law and by the charter and the by-laws of the Railroad Company to authorize the execution and delivery of these presents have been duly performed and complied with; and

WHEREAS, the forms of the Series of 1990 3% Bonds in coupon form, of the coupons to be attached thereto, of the Series of 1990 3% Bonds in registered form and of the Trustee's certificate to be en-

dorsed on the Series of 1990 3% Bonds are to be severally and respectively substantially as follows:

[FORM OF COUPON BOND]

No._____ $1,000

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

FIRST AND REFUNDING MORTGAGE SERIES OF 1990 3% BOND

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY (hereinafter called the "Railroad Company"), a corporation of the State of Illinois, for value received, hereby promises to pay to bearer, or, if this bond be registered, then to the registered holder hereof, on the first day of February, 1990, at the office or agency of the Railroad Company in the Borough of Manhattan, City of New York, State of New York, the sum of One Thousand Dollars in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, and to pay, in like coin or currency, interest thereon from February 1, 1950, at the rate of three per cent per annum, such interest to be payable at such office or agency, semi-annually on the first day of February and on the first day of August in each year until the payment of said principal sum, but only upon presentation and surrender of the coupons therefor hereto attached as they severally mature. This Series of 1990 3% Bond is one of the First and Refunding Mortgage Bonds (coupon and registered) of the Railroad Company, issued and to be issued in one or more series under and pursuant to, and all equally secured by, an indenture of mortgage or deed of trust dated February 1, 1921, duly executed by the Railroad Company to The First National Bank of the City of New York, a corporation of the United States of America, and Frazier L. Ford, as Trustees (George E. Porter being the duly appointed successor Individual Trustee) to which indenture and any and all supplements thereto, reference is hereby made for a description of the railroads, properties and franchises mortgaged or pledged to said Trustees, or their successors, the nature and extent of the security, and the rights of the holders of said bonds and of

the Trustees in respect of such security. At any time the authorized issue of bonds under said indenture is limited to an amount which, together with all then outstanding prior debt of the Railroad Company or of a successor corporation (as such prior debt is defined in the indenture aforesaid) after deducting therefrom the bonds then reserved under the provisions of said indenture to retire prior debt before, at or after maturity, shall be equal to three times the par value of the then outstanding fully paid capital stock of the Railroad Company or of a successor corporation. In case of certain defaults specified in said indenture, the principal of all such bonds may be declared and may become due and payable in the manner and with the effect provided in said indenture. As provided in the Third Supplemental Indenture dated as of February 1, 1950, the Railroad Company covenants that, as and for a sinking fund, it will pay to the Corporate Trustee, on or before the first day of November in each calendar year from 1950 to 1988, inclusive, $250,000 to be used by said Trustee for the purchase of Series of 1990 3% Bonds, or for the redemption thereof at the applicable sinking fund redemption prices hereinafter set forth. At its option, the Railroad Company, in lieu of making all or part of any sinking fund payment in cash, may surrender to the Corporate Trustee, and said Trustee will accept at the amount paid therefor by the Railroad Company, but not in excess of the then applicable sinking fund redemption price, Series of 1990 3% Bonds acquired by the Railroad Company, either canceled or uncanceled (except bonds retired by operation of the sinking fund). Series of 1990 3% Bonds to be redeemed will be determined by the Corporate Trustee by lot, in such manner as said Trustee deems proper. When such bonds have been redeemed and paid off by said Trustee, they shall be canceled by the Trustee. The Railroad Company will provide the Corporate Trustee, in addition to the amounts or bonds required for the sinking fund, with the amounts necessary to pay any accrued interest and brokerage commissions and the Trustee's charges and expenses.

As provided in said indenture, said Third Supplemental Indenture and in the resolution creating this series, upon notice published in a newspaper in the Borough of Manhattan, City and State of New York, at least once in each week for nine successive weeks next preceding said first day of February or August, first publication to be not less than sixty (60) days before the redemption date, all or any part of the Series of 1990 3% Bonds may be redeemed at the option of the Railroad Company on any interest date at the following re-

demption prices (expressed in percentages of the principal amount), together with accrued interest to the date fixed for redemption:

When redeemed for purposes other than the sinking fund, the redemption prices shall be:

FROM	TO	%	FROM	TO	%
Feb. 1, 1950	Jan. 31, 1954	104	Feb. 1, 1974	Jan. 31, 1978	101⅝
Feb. 1, 1954	Jan. 31, 1958	103⅝	Feb. 1, 1978	Jan. 31, 1982	101¼
Feb. 1, 1958	Jan. 31, 1962	103¼	Feb. 1, 1982	Jan. 31, 1986	100¾
Feb. 1, 1962	Jan. 31, 1966	102¾	Feb. 1, 1986	Jan. 31, 1989	100⅝
Feb. 1, 1966	Jan. 31, 1970	102⅜	Feb. 1, 1989	Jan. 31, 1990	100
Feb. 1, 1970	Jan. 31, 1974	102			

When redeemed through operation of the sinking fund, the redemption prices shall be:

FROM	TO	%	FROM	TO	%
Feb. 1, 1950	Jan. 31, 1954	101	Feb. 1, 1974	Jan. 31, 1978	100⅝
Feb. 1, 1954	Jan. 31, 1958	100⅞	Feb. 1, 1978	Jan. 31, 1982	100¼
Feb. 1, 1958	Jan. 31, 1962	100¾	Feb. 1, 1982	Jan. 31, 1986	100¼
Feb. 1, 1962	Jan. 31, 1966	100¾	Feb. 1, 1986	Jan. 31, 1989	100⅛
Feb. 1, 1966	Jan. 31, 1970	100⅝	Feb. 1, 1989	Jan. 31, 1990	100
Feb. 1, 1970	Jan. 31, 1974	100½			

Series of 1990 3% Bonds with coupons are issuable in the denomination of $1,000. Series of 1990 3% Bonds in registered form without coupons are issuable in denominations of $1,000, $5,000, $10,000, $50,000, $100,000, and in such other denominations as the Board of Directors or Executive Committee of the Railroad Company may determine. Unless registered as herein provided, this bond shall pass by delivery. Any coupon bond may be registered as to principal in the owner's name at the office or agency of the Railroad Company in the Borough of Manhattan, City of New York, such registry being noted on the bond, after which no transfer shall be valid unless made by the registered owner, in person or by attorney, and similarly noted on the bond; but the same may be discharged from registry by like transfer to bearer noted on the bond; whereupon transferability by delivery shall be restored. Such registration, however, shall not affect the negotiability of the coupons for the interest on the bond, and such coupons shall continue to be payable to bearer and to be transferable by delivery merely, and payment thereof shall fully discharge the Railroad Company in respect of the interest there-

in mentioned, whether or not the bond be registered. In the manner prescribed in said indenture and upon payment of the charges therein provided, the holder of any coupon bond or bonds for $1,000, at his option, may surrender for cancelation such bond or bonds, with all unmatured coupons, in exchange for a registered bond or bonds without coupons of the same series for the same aggregate principal amount. Any such registered bond, in like manner, and upon payment of the charges provided in said indenture, may in turn be exchanged for a coupon bond or coupon bonds of the same series for the same aggregate principal amount and bearing all unmatured coupons. No recourse shall be had for the payment of the principal of or the interest upon this bond, or for any claim based hereon, or otherwise in respect hereof, or of said indenture under which this bond is issued, against any incorporator, stockholder, officer or director, past, present or future, of the Railroad Company or of any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration of the issue hereof, expressly released as provided in said indenture. This bond shall not be entitled to any security or benefit under said indenture, and shall not become valid or obligatory for any purpose, until it has been authenticated by the execution of the certificate, hereon endorsed, by The First National Bank of the City of New York, as Corporate Trustee, or its successor in trust under said indenture.

In witness whereof the Railroad Company has caused this bond to be signed by its President or a Vice President, and its corporate seal to be hereunto affixed and attested by its Secretary or an Assistant Secretary, and coupons for said interest, bearing the engraved facsimile signature of its Treasurer, to be attached hereto.

Dated the 1st day of February, 1950.

Chicago, Burlington & Quincy Railroad Company,

By _____
Vice President.

Attest:

_____
Assistant Secretary.

(seal)

[form of interest coupon]

No._____ $15.00

On the first day of _____, Chicago, Burlington & Quincy Railroad Company will pay to bearer, at its office or agency in the Borough of Manhattan, City of New York, fifteen dollars in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, being six months' interest then due on its First and Refunding Mortgage Series of 1990 3% Bond, No. _____, unless said bond shall have been called for previous redemption and payment duly provided for.

_____
Treasurer.

[form of registered bond]

No._____ $_____

Chicago, Burlington & Quincy Railroad Company

First and Refunding Mortgage Series of 1990 3% Bond

Chicago, Burlington & Quincy Railroad Company (hereinafter called the "Railroad Company"), a corporation of the State of Illinois, for value received, hereby promises to pay to _____ or registered assigns, on the first day of February, 1990, at the office or agency of the Railroad Company in the Borough of Manhattan, City of New York, State of New York, the sum of _____ Dollars in such coin or currency of the United States of America as at the time of payment shall be legal tender for payment of public and private debts, and to pay interest thereon at the rate of three per cent per annum, from the first day of February or August, as the case may be, to which interest has been paid last preceding the date hereof, unless such date is a February 1 or August 1 to which interest has been paid, in which case from such date, or unless such date is prior to August 1, 1950, in which

case from February 1, 1950, such interest to be payable to the registered holder hereof at such office or agency, in like coin or currency, semi-annually on the first day of February and on the first day of August in each year until the payment of said principal sum. This Series of 1990 3% Bond is one of the First and Refunding Mortgage Bonds (coupon and registered) of the Railroad Company, issued and to be issued in one or more series under and pursuant to, and all equally secured by, an indenture of mortgage or deed of trust dated February 1, 1921, duly executed by the Railroad Company to The First National Bank of the City of New York, a corporation of the United States of America, and Frazier L. Ford, as Trustees (George E. Porter being the duly appointed successor Individual Trustee) to which indenture and any and all supplements thereto, reference is hereby made for a description of the railroads, properties and franchises mortgaged or pledged to said Trustees, or their successors, the nature and extent of the security, and the rights of the holders of said bonds and of the Trustees in respect of such security. At any time the authorized issue of bonds under said indenture is limited to an amount which, together with all then outstanding prior debt of the Railroad Company or of a successor corporation (as such prior debt is defined in the indenture aforesaid) after deducting therefrom the bonds then reserved under the provisions of said indenture to retire prior debt before, at or after maturity, shall be equal to three times the par value of the then outstanding fully paid capital stock of the Railroad Company or of a successor corporation. In case of certain defaults specified in said indenture, the principal of all such bonds may be declared and may become due and payable in the manner and with the effect provided in said indenture. As provided in the Third Supplemental Indenture dated as of February 1, 1950, the Railroad Company covenants that, as and for a sinking fund, it will pay to the Corporate Trustee, on or before the first day of November in each calendar year from 1950 to 1988, inclusive, $250,000 to be used by said Trustee for the purchase of Series of 1990 3% Bonds, or for the redemption thereof at the applicable sinking fund redemption prices hereinafter set forth. At its option, the Railroad Company, in lieu of making all or parts of any sinking fund payment in cash, may surrender to the Corporate Trustee, and said Trustee will accept at the amount paid therefor by the Railroad Company, but not in excess of the then applicable sinking fund redemption price, Series of 1990 3% Bonds acquired by the Railroad Company, either canceled or uncanceled (except bonds re-

tired by operation of the sinking fund). Series of 1990 3% Bonds to be redeemed will be determined by the Corporate Trustee by lot, in such manner as said Trustee deems proper. When such bonds have been redeemed and paid off by said Trustee, they shall be canceled by the Trustee. The Railroad Company will provide the Corporate Trustee, in addition to the amounts or bonds required for the sinking fund, with the amounts necessary to pay any accrued interest and brokerage commissions and the Trustee's charges and expenses.

As provided in said indenture, said Third Supplemental Indenture, and in the resolution creating this series, upon notice published in a newspaper in the Borough of Manhattan, City and State of New York, at least once in each week for nine successive weeks next preceding said first day of February or August, first publication to be not less than sixty (60) days before the redemption date, all or any part of the Series of 1990 3% Bonds may be redeemed at the option of the Railroad Company on any interest date at the following redemption prices (expressed in percentages of the principal amount), together with accrued interest to the date fixed for redemption:

When redeemed for purposes other than the sinking fund, the redemption prices shall be:

FROM	TO	%	FROM	TO	%
Feb. 1, 1950	Jan. 31, 1954	104	Feb. 1, 1974	Jan. 31, 1978	101⅝
Feb. 1, 1954	Jan. 31, 1958	103⅝	Feb. 1, 1978	Jan. 31, 1982	101¼
Feb. 1, 1958	Jan. 31, 1962	103¼	Feb. 1, 1982	Jan. 31, 1986	100¾
Feb. 1, 1962	Jan. 31, 1966	102¾	Feb. 1, 1986	Jan. 31, 1989	100⅜
Feb. 1, 1966	Jan. 31, 1970	102⅜	Feb. 1, 1989	Jan. 31, 1990	100
Feb. 1, 1970	Jan. 31, 1974	102			

When redeemed through operation of the sinking fund, the redemption prices shall be:

FROM	TO	%	FROM	TO	%
Feb. 1, 1950	Jan. 31, 1954	101	Feb. 1, 1974	Jan 31, 1978	100⅜
Feb. 1, 1954	Jan. 31, 1958	100⅞	Feb. 1, 1978	Jan. 31, 1982	100¼
Feb. 1, 1958	Jan. 31, 1962	100¾	Feb. 1, 1982	Jan. 31, 1986	100¼
Feb. 1, 1962	Jan. 31, 1966	100¾	Feb. 1, 1986	Jan. 31, 1989	100⅛
Feb. 1, 1966	Jan. 31, 1970	100⅝	Feb. 1, 1989	Jan. 31, 1990	100
Feb. 1, 1970	Jan. 31, 1974	100½			

Series of 1990 3% Bonds with coupons are issuable in the denomination of $1,000. Series of 1990 3% Bonds in registered form without coupons are issuable in denominations of $1,000, $5,000, $10,000, $50,000, $100,000, and in such other denominations as the Board of Directors or Executive Committee of the Railroad Company may determine. This bond is transferable only in the manner prescribed in said indenture at the office or agency of the Railroad Company in the Borough of Manhattan, City of New York, upon surrender and cancellation of this bond; and upon any such transfer a new registered bond without coupons of the same series will be issued to the transferee, in exchange therefor. This bond also, in the manner prescribed in said indenture, is exchangeable for coupon bond or bonds of the same series, for the same aggregate principal amount and bearing all unmatured coupons. Any such coupon bond or bonds bearing all unmatured coupons, in like manner may in turn be exchanged for registered bond or bonds without coupons of the same series for the same aggregate principal amount. Registered bonds, without coupons, of this series, of one denomination, are exchangeable for a like principal amount of registered bonds, without coupons, of the same series, of other authorized denominations. For such transfer or exchange, a charge may be made as provided in said indenture. No recourse shall be had for the payment of the principal of or the interest upon this bond, or for any claim based hereon, or otherwise in respect hereof, or of said indenture under which this bond is issued, against any incorporator, stockholder, officer or director, past, present or future, of the Railroad Company or of any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration of the issue hereof, expressly released as provided in said indenture. This bond shall not be entitled to any security or benefit under said indenture, and shall not become valid or obligatory for any purpose, until it has been authenticated by the execution of the certificate, hereon endorsed, by The First National Bank of the City of New York, as Corporate Trustee, or its successor in trust under said indenture.

In Witness Whereof the Railroad Company has caused this bond to be signed by its President or a Vice President, and its corporate

seal to be hereunto affixed and attested by its Secretary or an Assistant Secretary.

Dated the _____ day of _____, 19__.

Chicago, Burlington & Quincy Railroad Company,

By _____
Vice President.

Attest:

_____
Assistant Secretary.

(seal)

[form of corporate trustee's certificate]

This bond is one of the issue of bonds, of the series designated therein, described in the within-mentioned indenture.

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

By _____
Authorized Officer.

Now, therefore, this Third Supplemental Indenture Witnesseth:

That, in consideration of the premises and of the sum of Ten Dollars ($10) lawful money of the United States of America to the Railroad Company duly paid by the Corporate Trustee at or before the ensealing and delivery of this Third Supplemental Indenture, and other good and valuable consideration, the receipt whereof is hereby acknowledged, the Railroad Company has executed and delivered this Third Supplemental Indenture and covenants and agrees with the Trustees and with the respective holders from time to time of the Bonds and coupons issued and to be issued under said Mortgage as follows:

ARTICLE ONE.

Section 1. The Series of 1990 3% Bonds shall be issued and authenticated under and in accordance with the provisions of the

the next succeeding Series of 1990 3% Bonds Sinking Fund installment; *provided* that any balance of the Series of 1990 3% Bonds Sinking Fund remaining after all of Series of 1990 3% Bonds have been retired or called for redemption pursuant to Section 2 of this Article One and Article Four of the Mortgage shall be returned to the Railroad Company.

All Series of 1990 3% Bonds purchased through the operation of the Series of 1990 3% Bonds Sinking Fund and all Series of 1990 3% Bonds delivered by the Railroad Company to the Corporate Trustee for the account of the Series of 1990 3% Bonds Sinking Fund, together with all unmatured coupons thereto appertaining, shall be cancelled by the Corporate Trustee if not previously cancelled by the Railroad Company and all Series of 1990 3% Bonds redeemed through the operation of the Sinking Fund shall be cancelled by the Corporate Trustee and returned to the Railroad Company, and no Bonds of the Railroad Company shall be issued in lieu of any thereof so long as any of the Series of 1990 3% Bonds are outstanding.

The Railroad Company covenants to pay the compensation and expenses of the Corporate Trustee in administering the Series of 1990 3% Bonds Sinking Fund as provided herein, including the cost of advertisement of redemption notices and other expenses.

Default in the payment of any Series of 1990 3% Bonds Sinking Fund installment as herein provided which shall continue for thirty days is hereby made an additional event of default under Section 2 of Article Seven of the Mortgage.

Section 4. Any moneys which at any time shall be deposited by the Railroad Company or on its behalf with the Corporate Trustee or any other depositary for the purpose of paying any of the Series of 1990 3% Bonds which have become due and payable, whether at the maturity thereof or upon call for redemption or otherwise, or for the purpose of paying any coupons or claims for interest appertaining to any of the Series of 1990 3% Bonds, shall be and hereby are assigned, transferred and set over to the Corporate Trustee or such

depositary, as the case may be, to be held in trust for the respective holders of the Series of 1990 3% Bonds or coupons or claims for interest appertaining thereto, for the purpose of paying which said moneys shall have been deposited, subject to the provisions of the Mortgage, *provided, however,* that the Trustee shall reimburse the Railroad Company, from time to time, out of the funds paid to the Trustee for the purpose of paying interest, for all or any part of any accrued interest paid by the Railroad Company at its office or agency on the Bonds which have so become due and payable.

ARTICLE TWO.

So long as any of the Series of 1990 3% Bonds are outstanding with the public or until adequate provision has been made for payment of such bonds, the Railroad Company covenants as follows:

(1) The Railroad Company will not request authentication and delivery of any additional bonds under Section 5 of Article Three of the Mortgage or the authentication and delivery of any additional bonds or payment of any deposited cash under Paragraphs I, II or VI of Section 6 of Article Three of the Mortgage, to pay for, or in reimbursement of, expenditures made prior to January 1, 1945 for construction or acquisition of railroads, for additions, betterments or improvements, or for any other purposes specified in said Paragraphs.

(2) The aggregate of the amount of bonds issuable and the amount of deposited cash (to the extent that it represents cash deposited with the Corporate Trustee against the authentication of bonds) payable under Paragraph II of Section 6 of Article Three of the Mortgage, to pay for or in reimbursement of expenditures made after December 31, 1944 for the purposes specified in said Paragraph II, shall be limited to seventy-five per cent of the excess of capital expenditures (exclusive of expenditures certified to the Corporate Trustee in connection with the withdrawal of deposited cash other than cash deposited with the Corporate Trustee against the authentication of bonds) charged to Investment in Road Accounts of the Railroad Company (being the primary accounts numbered 1 to 47, inclusive, under I Road, as presently or from time to time prescribed for

Steam Railroads by the Interstate Commerce Commission) in connection with the making of such expenditure over the credits to said accounts for land, and property retired and replaced, in connection with the making of the additions, betterments or improvements for which such expenditures are incurred, but without deducting any credits to said accounts for land or property retired and not replaced.

(3) The Railroad Company will not request authentication and delivery of any additional bonds or payment of deposited cash (to the extent that it represents cash deposited with the Corporate Trustee against the authentication of bonds) under Paragraph III of Section 6 of Article Three of the Mortgage, to pay for, or in reimbursement of, expenditures for the purposes specified in said Paragraph III.

(4) The Railroad Company will not request authentication and delivery of any additional bonds or payment of deposited cash (to the extent that it represents cash deposited with the Corporate Trustee against the authentication of bonds) under Paragraph V of Section 6 of Article Three of the Mortgage for the payment or refunding of any indebtedness contracted for expenditures made prior to January 1, 1945 for the purposes specified in Paragraphs I and II of Section 6 of Article Three of the Mortgage, or for expenditures for the purposes specified in Paragraph III of Section 6 of Article Three of the Mortgage, or for expenditures made subsequent to December 31, 1944 for the purposes specified in said Paragraph II in excess of the amount of such expenditures against which bonds might be authenticated pursuant to clause (2) above.

In addition to the certificate or certificates required to be be delivered to the Corporate Trustee in connection with requests for authentication of bonds or payment of deposited cash under Section 6 of Article Three of the Mortgage the Railroad Company, when requesting authentication of bonds or payment of deposited cash (to the extent that it represents cash deposited with the Corporate Trustee against the authentication of bonds) for the purposes specified in Paragraphs I, II and V of said Section 6, shall deliver an additional certificate or certificates to show that the amount or amounts

requested are not in excess of the amount permissible under the covenants set forth in this Article Two.

ARTICLE THREE.

The Trustees hereby accept the trust herein declared and provided and agree to perform the same upon the terms and conditions in the Mortgage set forth and upon the following terms and conditions:

The Trustees shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Third Supplemental Indenture or the due execution hereof by the Railroad Company or for or in respect of the recitals contained herein, all of which recitals are made by the Railroad Company solely. The Trustees shall be under no obligation to see to the filing, registration or recording of this Third Supplemental Indenture or to the refilling, reregistration or rerecording thereof but the Railroad Company covenants to effect when and as may be required by law the filing, registration or recording and the refiling, reregistration or rerecording hereof. The Corporate Trustee may authenticate and deliver any of the Series of 1990 3% Bonds herein provided for without waiting for any such filing, registration, recording or refiling, reregistration or rerecording. In general, each and every term and condition contained in Article Thirteen of the Mortgage shall apply to and form a part of this Third Supplemental Indenture with the same force and effect as if the same were herein set forth in full with such omissions, variations and insertions as may be appropriate to make the same conform to this Third Supplemental Indenture.

ARTICLE FOUR.

The Railroad Company, subject to the provisions of Article Twelve of the Mortgage, will at all times maintain and continue its corporate existence and right to carry on business and duly will procure all necessary renewals and extensions thereof.

ARTICLE FIVE.

This Third Supplemental Indenture may be executed simultaneously in several counterparts, each of which so executed shall be deemed to be an original; and such counterparts shall together constitute but one and the same instrument.

ARTICLE SIX.

This is a Third Supplemental Indenture dated as of February 1, 1950, to the Mortgage, executed pursuant to the provisions thereof, and each and every part of this Third Supplemental Indenture and each and every covenant contained herein shall be and become a part of the Mortgage and each of the Covenants and obligations of the Railroad Company herein contained shall be, except as herein otherwise provided, subject to the provisions of said Mortgage.

In Witness Whereof, Chicago, Burlington & Quincy Railroad Company, the party hereto of the first part, has caused this Third Supplemental Indenture to be signed in its corporate name and acknowledged or proved by its President or a Vice President, and its corporate seal to be hereunto affixed and the same to be attested by the signature of its Secretary or an Assistant Secretary; and The First National Bank of the City of New York, as Corporate Trustee, one of the parties hereto of the second part, has caused this Third Supplemental Indenture to be signed and acknowledged or proved by its President, a Vice President, or an Assistant Vice President, and its corporate seal to be hereunto affixed and the same to be attested by the signature of its Cashier or an Assistant Cashier; and George E. Porter, as Individual Trustee, the other of the parties hereto of the second part, has hereunto set his hand and seal, as of the 1st day of February, 1950.

Chicago, Burlington & Quincy Railroad Company,

(Corporate Seal) By J. C. James
Executive Vice President.

Attest:

Edith J. Alden
Secretary.

The First National Bank of the City of New York,

(Corporate Seal) By Henry S. Sturgis
Vice President.

Attest:

T. A. Collins
Assistant Cashier.

George E. Porter (L. S.)

Signed, sealed and delivered in presence of:

As to Chicago, Burlington & Quincy Railroad Company:

R. W. Coglan
A. M. Slocik

As to The First National Bank of the City of New York:

F. Connolly
N. L. Walter

As to George E. Porter:

J. M. Ford II
John D. McCaskey

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 21st day of April, 1950, personally appeared before me within said County and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, Henry S. Sturgis and T. A. Collins, 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 executed said instrument as such Vice President and Assistant Cashier, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and the said Henry S. Sturgis and T. A. Collins, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said Henry S. Sturgis resides in Cedarhurst, N. Y.; and that the said T. A. Collins resides in Jackson Heights, N. Y.; that said Henry S. Sturgis is a Vice President and said T. A. Collins is an Assistant Cashier of The First National Bank of the City of New York, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said Henry S. Sturgis and T. A. Collins, 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
(Notarial Seal) *Notary Public, New York County*

My commission expires March 30, 1951.

State of Missouri, }
County of Buchanan. } ss.:

I, Margaret Pape, 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 17th day of April, 1950, personally appeared before me within the said County and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, George E. Porter, to me personally known and known to me to be the individual and the identical person who is described in and who subscribed his name to and who executed the within and foregoing instrument in writing in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said George E. Porter duly acknowledged to me in the presence of said witnesses that he signed, sealed, executed and delivered the said instrument freely and voluntarily and as his free and voluntary act and deed for the consideration, objects, uses and purposes therein stated and set forth.

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

Margaret Pape
(Notarial Seal) *Notary Public, Buchanan County*

My commission expires July 22, 1953.

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

I, A. D. McLane, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, do hereby certify that on this 11th day of April, 1950, personally appeared before me within said County and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, J. C. James and Edith J. Alden, each to me personally known and known to me to be respectively Executive Vice President and Secretary of Chicago, Burlington & Quincy Railroad Company, one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Executive Vice President and Secretary respectively in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said J. C. James and Edith J. Alden, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said J. C. James resides in the City of Aurora and State of Illinois, and that the said Edith J. Alden resides in the Village of LaGrange and State of Illinois; that said J. C. James is Executive Vice President and said Edith J. Alden is Secretary of Chicago, Burlington & Quincy Railroad Company, one of the corporations described in and which executed the within and foregoing instrument in writing; that they, the said J. C. James and Edith J. Alden, 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 Executive

Vice President and Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

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

(Notarial Seal)

A. D. McLane,
Notary Public, Cook County.

My commission expires March 19, 1951.

State of Wisconsin)
DEPARTMENT OF STATE) ss.
Received this 18th day of
OCTOBER A. D. 1950 at 10:00
o'clock A. M. and recorded in Vol.
43 of RAILROAD MORTGAGES
on pages 340-353, incl.
Assistant Secretary of State

WISCONSIN

Executed in 22 Counterparts

Counterpart No. 4

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

Lease of Railroad Equipment

DATED AS OF NOVEMBER 1, 1950

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

TO

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

Agreement

DATED AS OF NOVEMBER 1, 1950

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 November 1, 1950, 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 November 1, 1950, 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 MM," 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 new, standard gauge railroad equipment of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series MM (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:

No. of Locomotives	Description	Estimated Cost Per Locomotive	Estimated Cost Total
	Diesel-Electric Freight Locomotives		
6	4500 H.P. Diesel-electric freight locomotives, each comprised of a lead unit, a booster unit, and a lead unit, and numbered, respectively, 46A and 46B and 48C to 50A and 50B and 50C, both inclusive, and 109A and 109B and 109C to 111A and 111B and 111C, both inclusive.....	$ 492,644.47	$2,955,866.82
3	1500 H.P. Diesel-electric freight locomotives, lead unit only, numbered 106A, 107A and 108A.....	169,633.49	508,900.47
	Diesel-Electric Passenger Locomotives		
2	4500 H.P. Diesel-electric passenger locomotives, each comprised of a lead unit, a booster unit, and a lead unit, and numbered, respectively, 96A and 96B and 96C, and 97A and 97B and 97C.....	518,092.59	1,036,185.18
	Diesel-Electric Transfer Locomotives		
2	3200 H.P. Diesel-electric transfer locomotives, each comprised of a lead unit and a booster unit, and numbered, respectively, 2100A and 2100B, and 2101A and 2101B	333,000.00	666,000.00
	Diesel-Electric Road Switching Locomotives		
1	1200 H.P. Diesel-electric road switching locomotive, No. 970.....	106,825.00	106,825.00
	Diesel-Electric Switching Locomotives		
10	1000 H.P. Diesel-electric switching locomotives, Nos. 1863 to 1872, both inclusive.	98,570.00	985,700.00
5	1200 H.P. Diesel-electric switching locomotives, Nos. 1905 to 1909, both inclusive.	98,061.00	490,305.00
5	1200 H.P. Diesel-electric switching locomotives, Nos. 1528 to 1532, both inclusive..	98,057.00	490,285.00
	Total estimated cost.....		$7,242,067.47

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 $7,240,000.

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.

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.

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 MM, 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 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 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 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 MM, 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 de-

preciation 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 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 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 Superintendant of Motive Power, 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. If the Trustee shall receive an opinion of counsel that such proposed action will not impair its title to the Trust Equipment and if in the judgment of the Trustee such action will not be otherwise detrimental to the interests of the Trust Certificate holders, it may, on written request of the Railroad Company setting forth the 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 breach of this covenant, but the appointment of a receiver or receivers or a trustee or trustees in bankruptcy for the Railroad Company, or its property, or the filing of a voluntary petition under the Bankruptcy Act, shall be deemed an unauthorized assignment by the Railroad Company of its rights and interests in the Trust Equipment and shall be deemed a breach of this covenant, unless (a) any such receiver or receivers, or trustee or trustees, shall have been discharged within sixty (60) 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 of the Railroad Company 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 (b) any such petition shall have been withdrawn and proceedings thereon terminated within a like period.

Seventh. In case the Railroad Company

(1) shall make default in the payment of any part of said rent and such default shall continue for more

than thirty (30) days after the same shall become due and payable, or

(2) shall make or suffer any unauthorized assignment or transfer of its rights or interest in, or any unauthorized sublease of, or, except as herein authorized, part with the possession of, the Trust Equipment, or any thereof, and shall fail or refuse either to cause such assignment or transfer or sublease to be canceled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within thirty days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said thirty days to deposit with the Trustee a sum in cash equal to the actual cost of the Trust Equipment so assigned or transferred or subleased, or the possession of which shall have been so parted with, as certified to the Trustee pursuant to Section 4 of Article I of the 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 a Vice-President or the 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 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 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 the 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 the 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 owners of interests in said Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series MM; 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 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 and in such order as may be deemed expedient. 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 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 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,
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. Everitt,

.....
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:

.....
Ruth E. Hall,

.....
C. G. Metzler,
Attesting Witnesses.

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

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 2nd day of November, 1950, 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 October 19, 1953.

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

RICHARD J. DALEY — Form 104

STATE OF ILLINOIS, }
COOK COUNTY, } ss.

I, RICHARD J. DALEY, County Clerk of the County of Cook, Do Hereby Certify that I am the lawful custodian of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of registrary, that E. W. Lueders whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, dated the [illegible] day of [illegible] A.D. [illegible] was on the date of said proof of acknowledgment a Notary Public in and for said County, duly commissioned and qualified, and that I am well acquainted with the handwriting of such Notary Public and believe that the signature to said proof of acknowledgment is genuine; and that the seal affixed thereto is a valid seal of said Notary Public.

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 2 day of Nov. A.D. 50

Richard J. Daley, County Clerk.

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

I, R. W. SPANGENBERG, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, DO HEREBY CERTIFY that on this 1st day of November, 1950, 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 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 Park Ridge, 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 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. W. Spangenberg,
Notary Public in and for the State of Illinois, County of Cook.

RICHARD J. DALEY — Form 104

STATE OF ILLINOIS, }
COOK COUNTY, } ss.

I, RICHARD J. DALEY, County Clerk of the County of Cook, Do Hereby Certify that I am the lawful custodian of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of registrary, that R. W. Spangenberg whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, dated the [illegible] day of [illegible] A.D. [illegible] was on the date of said proof of acknowledgment a Notary Public in and for said County, duly commissioned and qualified, and that I am well acquainted with the handwriting of such Notary Public and believe that the signature to said proof of acknowledgment is genuine; and that the seal affixed thereto is a valid seal of said Notary Public.

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 2 day of Nov. A.D. 50

Richard J. Daley, County Clerk.

THIS AGREEMENT, dated as of November 1, 1950, 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 $5,430,000 to a fund to be known as Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series MM, 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 $5,430,000 in thirty semiannual installments of $181,000 each, payable respectively on May 1st and November 1st, in each year, beginning on May 1, 1951, and ending on November 1, 1965, 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 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 MM, 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 new, 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 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

(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.

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 there-

after 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 November 1, 1951.

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 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 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 $7,240,000, 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 $7,240,000.

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 securi-

ties, 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 $5,430,000 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 2½ per cent per annum from November 1, 1950, payable semiannually on the first day of May and November in each year. $181,000 principal amount of the Trust Certificates shall become due and payable on May 1 and November 1 in each year beginning on May 1, 1951, and ending on November 1, 1965. 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 5,430, 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. 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 MM

Total Issue not to exceed $5,430,000

Dividends at the rate of Two and One-Half Per Cent per Annum

Payable May 1 and November 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 November 1, 1950 (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 MM, payable on ..... 1, 19...., unless prior payment hereof be required as hereinafter provided, and to dividends thereon at the rate of two and one-half per cent (2½%) per annum from November 1, 1950, to said date of maturity, payable semiannually on May first and November 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, 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 November 1, 1950.

This certificate is one of an issue of certificates, in bearer form, in an aggregate principal amount not exceeding $5,430,000, substantially identical except as to dates of maturity, all issued or to be issued under the 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 the Agreement) and the 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 the 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 or thereof 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 the 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 the 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 November, 1950.

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 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, being the semiannual dividend then due on Certificate No. ..... of Chicago, Milwaukee, St. Paul and Pacific Railroad Equipment Trust, Series MM, 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 and one-half per cent (2½%) 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 any present or future Assistant Secretary of the Trustee, and the Trustee may adopt and use for that purpose any such facsimile signature notwithstanding the fact that any 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 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 dividends thereon in like coin or currency at the rate of 2½ per cent per annum from November 1, 1950, 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 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 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 November 1, 1965, 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 (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 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

(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, 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 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 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 authorised; 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 im-

mediately, 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.

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 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.

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 terms "Trustee" and "Railroad Company" as used herein and in the Lease shall be held and construed to mean, respectively, Continental Illinois National Bank and Trust Company of Chicago, its successors and assigns, and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, its successors and assigns. The term "Trust Equipment" whenever 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. The terms "Trust Certificate" or "Trust Certificates", whenever used herein or in the Lease, include, unless the context otherwise indicates, both temporary and definitive certificates. The term "State" whenever used herein or in the 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 to or made upon 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.

.....(L. S.)
H. J. Groener,

.....(L. S.)
H. H. Conley.

Signed, sealed and delivered by H. J. Groener and H. H. Conley in the presence of:

.....
W. G. Ewert,

.....
E. W. Fahrenbach,
Attesting Witnesses.

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. Ewert,

.....
E. W. Fahrenbach,
Attesting Witnesses.

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

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 ....day of November, 1950, 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 thet 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.

RICHARD J. DALEY

Form 35A

STATE OF ILLINOIS, }
COOK COUNTY. } ss.

I, [redacted] County Clerk of the County of Cook, Do Hereby Certify that I am the lawful custodian of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of engrossing, that E. W. Lueders

whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, and to the proof of acknowledgment or proof of execution, a Notary Public in and for Cook County, at the time of taking such proof of acknowledgment or proof of execution, was authorized by the laws of said State of Illinois to take such proofs and acknowledgments; and, further, that the annexed instrument is executed and acknowledged according to the laws of the State of Illinois.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the County of Cook at my office in the City of Chicago, in the said County, this 2 day of Nov. - 19 50

Richard J. Daley County Clerk.

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:

..... Ruth E. Hall, Ruth E. Hall,

..... C. G. McGuire, C. G. McGuire, *Attesting Witnesses.*

STATE OF ILLINOIS, COUNTY OF COOK. } ss.

I, E. W. Leeders, 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 1st day of November, 1950, 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. Grosmer 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. Grosmer 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. Leeders, E. W. Leeders, *Notary Public in and for the State of Illinois, County of Cook.*

RICHARD J. DALEY — Form 114

STATE OF ILLINOIS, COOK COUNTY. } ss.

I, [redacted] County Clerk of the County of Cook, Do Hereby Certify that I am the lawful custodian of the official seal of Notaries Public of said County, and as such officer am duly authorized to issue certificates of auxiliary, that E. W. Leeders

whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, was, at the time of taking such proof of acknowledgment, a Notary Public in and for said County, duly commissioned and sworn and qualified as such, and that I am well acquainted with the handwriting of said Notary and verily believe that the signature to the said proof of acknowledgment is genuine; and further, that the annexed instrument is executed and acknowledged according to the laws of the State of Illinois.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County of Cook at my office in the City of Chicago, in the said County, this 7 day of Sept. AD 50

Richard J. Daley, County Clerk

STATE OF ILLINOIS, COUNTY OF COOK. } ss.

I, R. W. Spangenberg, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements, and hereditaments in said County, DO HEREBY CERTIFY that on the 1st day of November, 1950, 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 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 Park Ridge, 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 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. W. Spangenberg, *Notary Public in and for the State of Illinois, County of Cook.*

STATE OF WISCONSIN } ss.
Department of State }

Received this 8th day of November, A.D., 1950, at 10:00 o'clock A.M., and recorded in Vol. 43 of Railroad Mortgages on Pages 385-386, incl.

..... Secretary of State

RICHARD J. DALEY — Form 114

STATE OF ILLINOIS, COOK COUNTY. } ss.

I, [redacted] County Clerk of the County of Cook, Do Hereby Certify that I am the lawful custodian of the official seal of Notaries Public of said County, and as such officer am duly authorized to issue certificates of auxiliary, that R. W. Spangenberg

whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, was, at the time of taking such proof of acknowledgment, a Notary Public in and for said County, duly commissioned and sworn and qualified as such, and that I am well acquainted with the handwriting of said Notary and verily believe that the signature to the said proof of acknowledgment is genuine; and further, that the annexed instrument is executed and acknowledged according to the laws of the State of Illinois.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County of Cook at my office in the City of Chicago, in the said County, this 7 day of Sept. AD 50

Richard J. Daley, County Clerk

Form I. D. 24-A W-2-50 10M

LEASE No. 59634

(Rev. of No. [illegible])

This Indenture

Made this SEVENTH day of DECEMBER, A. D. 195 0, by and between the

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

hereinafter called "Railroad Company," and

KENNETH JOHNSON

of Milton, 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 MILTON County of ROCK State of WISCONSIN and described as follows, to-wit:

START at the point where the east line of Main Street, in the Town of Milton, in the County and State aforesaid, intersects the center line of the Railroad Company's main track as now there laid and operated; thence easterly along said center line 104 feet; thence southerly at right angles 8.5 feet to the point of beginning of the land to be described; thence southerly at right angles to said side track 49 feet; thence easterly parallel to said side track 110 feet; thence northerly at right angles 14 feet; thence easterly parallel to said side track 68 feet; thence northerly at right angles 35 feet to a point distant 8.5 feet southerly of, as measured at right angles to the center line of said side track; thence westerly parallel to said side track to the point of beginning.

CONTAINING 7,770 square feet, more or less, the location thereof being more particularly indicated by the red outline on the plat hereto attached and made a part hereof.

Term / Effective Date — TO HOLD ~~for the term of~~ ..... ~~years~~ from the first day of January, 195 1, 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 FORTY NINE AND NO/100 ($49.00) Dollars per ~~month~~ 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 an ELEVATOR AND WAREHOUSE and for no other purpose whatsoever, unless the Railroad Company shall consent in writing to a change of user, and that he will not, without like consent, assign this lease or underlease said premises or any part thereof;

3. That the Lessee.... shall continuously carry on his 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 he 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...., his 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 ....and agree..s faithfully to observe and perform all the terms, conditions and requirements therein contained, and he further agree...s that he 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 him..... 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 his 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 himself 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.s and his 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.

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

E. J. Bell — Witness

By [signature] — Industrial Commissioner

O. M. Larsen — Witness for Lessee

Kenneth Johnson — Lessee

NORTHERN PACIFIC RAILWAY

EQUIPMENT TRUST OF 1951

AGREEMENT

Dated as of March 30, 1951

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 30, 1951

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

TO

NORTHERN PACIFIC RAILWAY COMPANY

For issue of $6,900,000 Equipment Trust Certificates

THIS AGREEMENT, dated as of March 30, 1951, 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 national banking association 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 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 Nine Hundred Thousand Dollars, ($6,900,000), 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 Nine Hundred Thousand Dollars ($6,900,000), to be known as "NORTHERN PACIFIC RAILWAY EQUIPMENT TRUST OF 1951," 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 Sixty Thousand Dollars ($460,000), payable serially on the thirtieth day of March in each year commencing with March 30, 1952, and ending with March 30, 1966, as hereinafter more particularly provided, with dividends at the rate of two and three-quarters (2¾%) percent per annum, from March 30, 1951, payable semi-annually on the thirtieth day of March and September in each year, commencing September 30, 1951, 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 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 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 Nine Hundred Thousand Dollars ($6,900,000). 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 1951", substantially in the form set forth in Article II of this Agreement of the aggregate par value of Six Million Nine Hundred Thousand Dollars ($6,900,000). 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 moneys at any time held by the Trustee hereunder or under the 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, and need not be segregated in a separate account. Any interest allowed by the Trustee upon any such moneys shall be paid from time to time to the order of the Company by the Trustee so long as the Company shall not be known to the Trustee to be in default hereunder or under the Lease.

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) eighty per cent (80%) 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) eighty per cent (80%) 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 Paragraph 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 per cent (20%) 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 the Trust Equipment, described and specified therein by road number or numbers, or by Manufacturer's serial 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 and that the Agreement and Lease or a Supplemental Agreement and Lease describing such Trust Equipment has been duly filed, registered or recorded, as required by Section 4 of Article III of the Agreement.

(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 char-

acter 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 Eight Million Seven Hundred and Nineteen Thousand Dollars ($8,719,000), 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 con-

struction 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 Seven Hundred and Nineteen Thousand Dollars ($8,719,000), of which aggregate final cost not more than Eighty per cent. (80%) shall be paid from "deposited cash", to the extent thereof and not less than twenty per cent. (20%) by the Company as provided in Section 4 of this Article.

SECTION 6. The Trustee, upon instructions from the Company, signed by the President or any Vice President, 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 30, 1966, 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 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 Nine Hundred Thousand ($6,900,000), 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-quarters (2¾%) percent per annum from March 30, 1951, payable semi-annually on the 30th day of March and September in each year commencing September 30, 1951. The par value of the Trust Certificates shall become due and payable as follows:

Nos.	1	to	[illegible],	both	inclusive,	on	the	30th	day	of	March	19..:	$400,000.00
"	[illegible]	to	[illegible],	"	"	"	"	"	"	"	"	19..:	[illegible]
"	[illegible]	to	[illegible],	"	"	"	"	"	"	"	"	19..:	[illegible]
"	[illegible]	to	[illegible],	"	"	"	"	"	"	"	"	19..:	[illegible]
"	[illegible]	to	[illegible],	"	"	"	"	"	"	"	"	19..:	[illegible]
"	[illegible]	to	[illegible],	"	"	"	"	"	"	"	"	19..:	[illegible]
"	[illegible]	to	[illegible],	"	"	"	"	"	"	"	"	19..:	[illegible]
"	[illegible]	to	[illegible],	"	"	"	"	"	"	"	"	19..:	[illegible]
"	[illegible]	to	[illegible],	"	"	"	"	"	"	"	"	19..:	[illegible]
"	[illegible]	to	[illegible],	"	"	"	"	"	"	"	"	19..:	[illegible]
"	[illegible]	to	[illegible],	"	"	"	"	"	"	"	"	19..:	[illegible]
"	[illegible]	to	[illegible],	"	"	"	"	"	"	"	"	19..:	[illegible]
Total													$6,900,000.00

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 6900, 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 1951
SERIAL EQUIPMENT TRUST CERTIFICATE
Total Issue $6,900,000

DIVIDENDS AT THE RATE OF TWO AND THREE-QUARTERS PER CENT (2¾%)

PER ANNUM, PAYABLE MARCH 30 AND SEPTEMBER 30.

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

Par Value payable March 30, 19 ....

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, Trustee under an Agreement dated as of March 30, 1951, 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 hereof, 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 1951, and, as hereinafter more

fully provided, is entitled to the payment of said par value on March 30, 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-quarters (2¾%) percent per annum from March 30, 1951, semi-annually on March 30 and September 30 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 the payment of 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 30, 1951, 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 30, 1951, 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 Nine Hundred Thousand Dollars ($6,900,000) 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 30, 1951.

In witness whereof, the Trustee has caused this certificate to be signed by its President, one of its Vice Presidents, or an Assistant Vice President 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 30th day of March, 1951.

The First National Bank of the City of New York,

Trustee,

By .....

Assistant Vice-President.

Attest:

.....

Assistant Cashier.

[Form of Dividend Warrant]

No. $13.75

Due to the bearer hereof on the thirtieth 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, Thirteen and 75/100 Dollars ($13.75), payable in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts, being the semi-annual dividend then due on Certificate No. of Northern Pacific Railway Equipment Trust of 1951, but only out of rentals or other moneys received by the undersigned pursuant to the Agreement and Lease, dated as of March 30, 1951, 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 as of March 30, 1951.

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, one of its Vice Presidents or an Assistant Vice President, 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 exchangeble, without cost to the holder, upon surrender for definitive Trust Certificates of like maturity date, 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 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 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 tenor, 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 Trustee 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 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 the payment of 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-quarters (2¾%) per cent per annum, from March 30, 1951, to the date of maturity of such Trust Certific-

ate, 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 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 Nine Hundred Thousand Dollars ($6,900,000) of

certificates shall be issued forthwith upon the deposit with the Trustee or to its credit as Trustee hereunder of Six Million Nine Hundred Thousand Dollars ($6,900,000) 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, 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. In case the Trustee shall retake possession of the Trust Equipment, it either may hold or may lease, or publicly or privately and for cash or upon credit, may sell or dispose of said Trust Equipment, or any part thereof, as the Trustee in its discretion may deem most beneficial to the holders of the Trust Certificates and as may be authorized by law. The proceeds of any such lease or sale or disposition, after deducting the cost and expenses of sale and the compensation, expenses and liabilities of the Trustee and its counsel,

all advances made by the Trustee, and any sums paid for taxes which the Trustee may be required by law to pay in respect of the property included in said trust or imposed upon the Trustee in respect of said property or the income of said trust, in accordance with Paragraph 16 of the Lease shall be applied by the Trustee to the payment:

(1) of the dividend warrants then due according to their terms, with interest, to the extent permitted by law, on overdue dividends at the rate of four per cent (4%) per annum from their respective due dates; and

(2) of the par value of each of the Trust Certificates then outstanding, whether or not then matured according to its terms, with interest thereon at the rate of four per cent (4%) per annum from the maturity thereof or the last preceding dividend date whichever is earlier;

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 dividends over par value, but subject to the provisions of Section 1 of this Article.

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 con-

dition that if at any time after the Trust Certificates shall have been declared due and payable, as provided in this Agreement, but before March 20, 1966, 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 default 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 rental 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 Agree-

ment 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 accord-

ance 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 con-

tinuance of any such holding unless and until it shall receive proof satisfactory 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 Agree-

ment, 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.

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 30, 1951.

Northwestern Improvement Company,

By Robert S. Kaskalem
President.

Attest:

Ernest J. Stuhald
Secretary

Signed, sealed and delivered by NORTHWESTERN IMPROVEMENT COMPANY in the presence of:

H. Jackett

Anna B. Lobb

THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,

By Leonard F. Hoopes
Vice President.

Attest:

Assistant Cashier.

NORTHERN PACIFIC RAILWAY COMPANY,

By
Vice President.

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:

As Witnesses

(United States Internal Revenue Stamps for $7,500 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 27th day of March A. D. 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 bearing date as of March 30, 1951, Robert S. Macfarlane and A. M. Gottschald, each to me personally known and known to me to be respectively the 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 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 Commodore Hotel, 79 North Western Avenue, St. Paul, Minnesota, and that the said A. M. Gottschald resides at 929 West Arlington Avenue, St. Paul, Minnesota; and said Robert S. Macfarlane is President and said A. M. Gottschald is Secretary of North-

western Improvement Company, one of 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 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
Notary Public.

C. B. Theits, Notary Public, Ramsey County, Minnesota
My Commission Expires Jan. 24, 1958.

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 27th day of March, A. D. 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 bearing date as of March 30, 1951, Leverett F. Hooper, and W. T. LOVELAND, 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, a national banking association, one of the parties 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 Leverett F. Hooper and W. T. LOVELAND 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 Leverett F. Hooper resides at Emerson Park, Essex Fells, N. J. and that the said W. T. LOVELAND resides at 166 W. 23rd Street New York, N. Y., that said Leverett F. Hooper is a Vice President and said W. T. LOVELAND is an Assistant Cashier of

The First National Bank of the City of New York, a national banking association one of the parties described in and which executed the within and foregoing instrument in writing; that they, the said Leverett F. Hooper and W. T. LOVELAND know the seal of said association; that the seal affixed to said instrument as the seal of said association is such seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said association by authority of the by-laws of such association and by order and authority of the Board of Directors of said association, 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 association 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 association 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 association, and that such 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 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.
Notary Public in the State of New York.
Residing in New York County.
New York County Clerk's No. ..,
Commission Expires .....

EDNA VEITH
Notary Public for the State of N.Y.
Qualified in New York County
No. 31-4092750
Commission Expires March 30, 1953

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 29th day of March A. D. 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 bearing date as of March 30, 1951, J. H. Poore and F. G. Hollender, each to me personally known and known to me to be respectively a Vice President and an Assistant Secretary of Northern Pacific Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and to be duly authorized to make this acknowledgment as hereinafter stated, and the said 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 2206 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 corporations 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.
Notary Public in the State of New York,
Residing in New York County.
New York County Clerk's No. ...
Commission expires .....

EDNA VEITH
Notary Public for the State of N.Y.
Qualified in New York County
No. 31-4092750
Commission Expires March 30, 1953

LEASE

THIS LEASE AGREEMENT, dated as of March 30, 1951, by and between THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, a national banking association 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 1951", 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

(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 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 per centum (20%) 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-quarters (2¾%) 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: $460,000 on the 30th day of March in each year from March 30, 1952 to March 30, 1966, 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 subdi-

vision 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-half inch in height:

NORTHERN PACIFIC RAILWAY EQUIPMENT TRUST OF 1951,
THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK,
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, except, however, that the road numbers on the foregoing described lead units and booster units, component parts of the six 6,000 H. P. Diesel-electric freight locomotives, for the convenient and efficient operation of said Diesel locomotive units in the business of the Company, may, if deemed desirable, be changed from time to time for operating purposes without the consent of the Trustee or recording or filing of any instrument; *provided, however,* and the Company covenants that in case at any time during the continuance of said lease, the manufacturer's serial number affixed to any of said units shall be removed, defaced or destroyed, the Company will immediately cause the same to be restored or replaced; and *provided further,* and the Company agrees that at the same time as the statements required by Paragraph 7 of this lease, it will lodge with the Trustee a statement showing the road numbers as well as the manufacturer's serial number of each unit, and it further agrees that if any change

shall at any time be made in the road number of any such unit, it will promptly report such change in writing to the Trustee.

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 the original cost thereof less five per centum (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, 1952, 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 num-

bers 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 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 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 centum (25%) in aggregate par value of the Trust Certificates then outstanding and upon being indemnified as in Article V of 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 centum (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 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.

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 conferred 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, viz.: (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 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 30, 1951.

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

By .....
Vice President.

Attest:

.....
Assistant Cashier.

Northern Pacific Railway Company,

By .....
Vice President.

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:

.....

.....

As Witnesses to all Signatures.

STATEMENT OF COMPLIANCE
FORM CPR 11

State of Wisconsin
PUBLIC RECORDS BOARD

AGENCY	DATE
DIVISION	REEL NUMBER 42
RECORD SERIES	DISPOSAL AUTHORIZATION NUMBER

I certify that the film listed above complies with the minimum standards of quality for permanent photographic records, as established by the Public Records Board and that the film was processed and developed in accordance with minimum standards established by the Board.

FILM DEVELOPER AND PROCESSOR

I certify pursuant to Section 16.61 (7) Wisconsin Statutes, that this records series has been photographed on the reels of film listed above.

HEAD OF AGENCY OR DESIGNATED REPRESENTATIVE

Form CPR 10

State of Wisconsin
PUBLIC RECORDS BOARD

CAMERA OPERATOR'S CERTIFICATE

REEL NUMBER 42	REDUCTION RATIO	DISPOSAL AUTHORIZATION NUMBER
CAMERA (TYPE)	(MODEL)	(SERIAL NUMBER)
TITLE OF RECORD SERIES		
AGENCY		

I certify that I have on this day of 4-16, 19 84, photographed the above described documents in accordance with the standards and procedures established by Section 16.61 of the Wisconsin Statutes.

ROLL BEGINS WITH Vol. 42	ROLL ENDS WITH Vol. 42
	CAMERA OPERATOR

STATEMENT OF COMPLIANCE
FORM CPR 11

State of Wisconsin
PUBLIC RECORDS BOARD

AGENCY	DATE
DIVISION	REEL NUMBER 43
RECORD SERIES	DISPOSAL AUTHORIZATION NUMBER

I certify that the film listed above complies with the minimum standards of quality for permanent photographic records, as established by the Public Records Board and that the film was processed and developed in accordance with minimum standards established by the Board.

FILM DEVELOPER AND PROCESSOR

I certify pursuant to Section 16.61 (7) Wisconsin Statutes, that this records series has been photographed on the reels of film listed above.

HEAD OF AGENCY OR DESIGNATED REPRESENTATIVE

Form CPR 10

State of Wisconsin
PUBLIC RECORDS BOARD

CAMERA OPERATOR'S CERTIFICATE

REEL NUMBER 43	REDUCTION RATIO	DISPOSAL AUTHORIZATION NUMBER
CAMERA (TYPE)	(MODEL)	(SERIAL NUMBER)

TITLE OF RECORD SERIES

AGENCY

I certify that I have on this day of 16, 19 , photographed the above described documents in accordance with the standards and procedures established by Section 16.61 of the Wisconsin Statutes.

ROLL BEGINS WITH 101 43	ROLL ENDS WITH 101 43
	CAMERA OPERATOR