

Note: This document secures future advances up to a maximum principal amount of \$685,000,000. Loans and advances up to this amount, together with interest are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.

COMPUTER

This document was prepared by, and after filing should be returned to:

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ALSO INDEXED IN  
U.C.C. RECORDS  
AS FINANCING  
STATEMENT.

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REC.   
PAGE

FILED NO. **855**  
BOOK 155 PAGE 1  
89 NOV -3 AM 10:47

Fee \$250.00

MARY E. WELTY  
RECORDER  
MADISON COUNTY, IOWA

**MORTGAGE, DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FINANCING STATEMENT**, dated as of October 27, 1989, made by CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation ("CNTC"), MIDWESTERN RAILROAD PROPERTIES, INCORPORATED, a Delaware corporation ("MRPI"), NORTH WESTERN LEASING COMPANY, a Delaware corporation ("NWL") and WISCONSIN TOWN LOT COMPANY, a Wisconsin corporation ("WTL") (CNTC, MRPI, NWL and WTL together with their successors and assigns, collectively, the "Mortgagors"), each having a principal office at One North Western Center, Chicago, Illinois 60606, to CHEMICAL BANK, a New York banking corporation, as collateral agent (together with any successor or successors as collateral agent and any additional mortgagees or trustees appointed and acting as mortgagees or trustees from time to time hereunder, collectively or as the context suggests, the "Mortgagee") for the lenders (the "Lenders") and the issuing bank (the "Issuing Bank") each from time to time party to the Credit Agreement dated as of August 14, 1989 (as the same may be amended, supplemented and restated from time to time, the "Credit Agreement") among Chicago and North Western Acquisition Corp., CNTC, Chicago and North Western Holdings Corp., CNW Corporation, the Issuing Bank, the Lenders and Chemical Bank, as Agent.

FOR RELEASE OF ANNEXED MORTGAGEES  
MORTGAGE RECORD 161 PAGE 226

**WITNESSETH**

WHEREAS as an inducement to the Lenders to make the Loans (terms used and not defined herein shall have those meanings ascribed to them in the Credit Agreement) and to the Issuing Bank to issue letters of credit under the Credit Agreement, and in consideration thereof, the Mortgagors have agreed to grant, and the obligation of the Lenders to make the Loans and of the Issuing Bank to issue letters of credit is conditioned upon the granting of, this Mortgage securing the obligations of the Mortgagors under the Credit Agreement and the other Loan Documents and certain other obligations specified herein and encumbering, among other things, certain real property; and

WHEREAS pursuant to the Credit Agreement, the Mortgagors have executed or guaranteed payment of, as part of the Loan Documents, certain Revolving Credit Notes, Term Notes and Standby Credit Notes in the aggregate principal amount of up to \$585,000,000, payable to the order of the Lenders (such notes, as the same may be modified, amended, renewed, extended or otherwise changed from time to time, together with any notes or other obligations issued in renewal, extension or replacement thereof or in exchange or substitution therefor, collectively, the "Notes"); and

WHEREAS the Revolving Credit Notes shall mature no later than August 14, 1994 (subject to annual renewal pursuant to Section 2.27 of the Credit Agreement), the Term Notes shall mature no later than August 14, 1997, and the Standby Credit Notes shall mature no later than August 14, 1999; and such Notes shall bear interest at the rates specified in the Credit Agreement; and

WHEREAS in order to provide for and to secure the obligations of the Mortgagors under the Credit Agreement, this Mortgage and the other Loan Documents to the Lenders, the Issuing Bank and the

Mortgagee, each of the Mortgagors, in accordance with law and with the by-laws of each such Mortgagor, has determined to execute and deliver to the Mortgagee a mortgage, deed of trust, assignment of leases and rents, security agreement and financing statement in the form of this Mortgage, Deed of Trust, Assignment of Leases and Rents, Security Agreement and Financing Statement (as the same may be modified, amended or supplemented from time to time, this "Mortgage") such execution and delivery of this Mortgage being duly authorized and directed by each such Mortgagor; and

WHEREAS all requirements of law and of the charter and the by-laws of each of the Mortgagors have been duly complied with, and all things necessary to make this Mortgage a valid and binding mortgage, deed of trust, assignment of leases and rents, security agreement and financing statement as security for the payment and performance of the Loans, Letter of Credit Disbursements and such other obligations, have been done and performed.

NOW, THEREFORE, in order to induce the Lenders to make the Loans and the Issuing Bank to issue letters of credit, and in consideration thereof, and for the purpose of further securing the repayment of the Loans and any Letter of Credit Disbursement and the performance of all other obligations of the Mortgagors under the Credit Agreement, the other Loan Documents and certain other obligations specified herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Mortgagor hereby agrees as follows:

**TO SECURE:**

(a) the due and punctual payment of (i) all principal of the Loans, in the aggregate principal amount of up to \$585,000,000, as evidenced by those Notes outstanding at any time, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise, (ii) all interest on the Loans, when and as due, (iii) each payment required to be made in respect of any Letter of Credit Disbursement, when and as due, including interest thereon, if any, and (iv) all other monetary obligations of any Mortgagor to the Lenders, the Issuing Bank or the Mortgagee under the Credit Agreement, this Mortgage or the other Loan Documents, whether for Fees, reimbursement of expenses, indemnification obligations or otherwise and (v) all monetary obligations of Acquisition and CNTC under each interest rate protection agreement entered into pursuant to Section 5.17 of the Credit Agreement with any counterparty that is a Lender; it being understood and agreed that the terms of the Credit Agreement and each other Loan Document are hereby made a part of this Mortgage which also secures all other sums due or to become due thereunder and any renewals or extensions thereof so that this Mortgage shall stand as security for said Loans, and for any and all future and additional loans and other advances made by the Lenders, the Issuing Bank or the Mortgagee pursuant to the Credit Agreement or any other Loan Document, as the same may be amended from time to time, in such amount or amounts so that the aggregate principal balance, including all future and additional advances outstanding and unpaid at any one time shall not exceed in the aggregate \$585,000,000 in Loans, and the Lenders are hereby given authority to make such future and additional advances, all as provided for in the Credit Agreement, and secured as the original obligation herein; it being further understood and agreed that such limitation upon the total amount of principal shall not be considered as limiting the amounts secured hereby for accrued interest or for any other amount (all the foregoing, together with all other amounts secured hereby, including advances to protect the liens and security interests granted by this Mortgage or any other Loans Documents are hereinafter collectively referred to as the "Indebtedness"); and

(b) the due and punctual performance of all covenants, agreements, obligations and liabilities of each of the Mortgagors under or pursuant to the Credit Agreement, this Mortgage and the other Loan Documents (all the obligations referred to in this clause (b) and in the preceding clause (a) being referred to collectively as the "Obligations");

each of Mortgagors have executed and delivered this Mortgage, and have mortgaged, granted, bargained, sold, liened, remised, released, conveyed, confirmed, pledged, created a security interest in, assigned, transferred and set over (collectively, "mortgaged"), and by these presents does mortgage, grant, bargain, sell, alien, remise, release, convey, confirm, pledge, create a security interest in, assign, transfer, warrant and set over (collectively, "mortgage") WITH POWER OF SALE, unto and in favor of the Mortgagee, its

successors and assigns in trust forever, for the equal and proportionate use, benefit and security of all and singular the persons who shall from time to time be entitled to the benefit of the Obligations, and for the uses and purposes and upon and subject to the terms, conditions, provisions and agreements hereinafter expressed and declared, any and all of each of the Mortgagor's estate, right, title and interest to or in respect of the following real and personal property (hereinafter collectively called the "Mortgaged Property"):

**FIRST.** All property, real, personal and mixed, and all rights therein and with respect thereto, comprising the lines of railroad and tracks now or hereafter owned by any Mortgagor, including, without limitation, the following main and principal branch lines of railroad:

1. A line of railroad beginning adjacent to the Passenger Terminal Station, near the intersection of Canal and Madison Streets, in the City of Chicago, Illinois, and extending westerly via West Chicago and Dixon, Illinois, and Clinton and Boone, Iowa, to Council Bluffs, Iowa, having a length of about 488 miles;
2. A line of railroad extending from Nelson, Illinois, southerly via Peoria, Girard, Benld and Decamp to Madison, Illinois, having a length of about 236 miles;
3. A line of railroad beginning at Clybourn in the City of Chicago, Illinois, and extending northwesterly via Barrington, Illinois, and Janesville, Evansville and Madison, Wisconsin, to Reedsburg, Wisconsin, having a length of about 181 miles;
4. A line of railroad beginning adjacent to the Passenger Terminal Station, near the intersection of Canal and Madison Streets, in the City of Chicago, Illinois, and extending northerly via Kenosha, Butler and Sheboygan, Wisconsin, to Cleveland, Wisconsin, having a length of about 204 miles;
5. A line of railroad beginning at Proviso in the City of Northlake, Illinois, and extending northerly to St. Francis, Wisconsin, having a length of about 49 miles;
6. A line of railroad beginning at 40th Street in the City of Chicago, Illinois, and extending northerly to Valley near the Village of Northbrook, Illinois, having a length of about 20 miles;
7. A line of railroad beginning at Kedzie in the City of Chicago, Illinois, and extending southerly to Robey Street in the City of Chicago, Illinois, having a length of about 9 miles;
8. A line of railroad beginning at West Chicago, Illinois, and extending northwesterly to Rockford, Illinois, having a length of about 63 miles;
9. A line of railroad beginning at Missouri valley, Iowa, and extending westerly and northerly via California Junction, Iowa, Blair, Norfolk, Long Pine and Chadron, Nebraska, and Rapid City and Belle Fourche, South Dakota, to Colony, Wyoming, having a length of about 600 miles;
10. A line of railroad beginning at the Union Passenger Depot in St. Paul, Minnesota, and extending southwesterly via Cliff, Mankato and Lake Crystal, Minnesota, and LeMars and Sioux City, Iowa, to California Junction, Iowa, having a length of about 307 miles;
11. A line of railroad beginning at the Union Passenger Depot in St. Paul, Minnesota, and extending southerly via Inver Grove, Rosemount, Comus and Albert Lea, Minnesota, Northwood, Manly, Mason City, Des Moines, Carlisle and Allerton, Iowa, and Trenton, Polo and Birmingham, Missouri, to Air Line Jct. in the City of Kansas City, Missouri, having a length of about 420 miles;
12. A line of railroad beginning at Ames, Iowa, and extending northerly via Jewell to Burt, Iowa, having a length of about 109 miles;
13. A line of railroad beginning at Rolfe, Iowa, and extending to Albert City, Iowa, having a length of about 35 miles;
14. A line of railroad beginning at Mason City, Iowa, and extending northwesterly to Comfrey, Minnesota, having a length of about 120 miles;

15. A line of railroad beginning at Grand Junction, Iowa, and extending northerly to Mallard, Iowa, having a length of about 70 miles;

16. A line of railroad beginning at Goldfield, Iowa, and extending northwesterly to Estherville, Iowa, having a length of about 86 miles.

17. A line of railroad beginning at Green Bay, Wisconsin, and extending northerly via Duck Creek, Wisconsin, and Escanaba, Michigan, to Ishpeming, Michigan, having a length of about 188 miles;

18. A line of railroad beginning at Powers, Michigan, and extending westerly to Antoine, Michigan, having a length of about 30 miles;

19. A line of railroad beginning at Tower BJ, near Butler, Wisconsin, and extending northwesterly via Clyman Junction, Wyeville, Eau Claire, and Truax, Wisconsin, to the Union Passenger Depot in St. Paul, Minnesota, having a length of about 321 miles;

20. A line of railroad beginning at Lakeland Junction, Minnesota, and extending northerly to Stillwater, Minnesota, having a length of about 5 miles;

21. A line of railroad beginning at Yukon Jct., near Eau Claire, Wisconsin, and extending northerly via Spooner and Trego to Superior, Wisconsin, having a length of about 157 miles;

22. A line of railroad beginning at Wiscona in the City of Milwaukee, Wisconsin, and extending northwesterly to Granville, Wisconsin, having a length of about 7 miles;

23. A line of railroad beginning at Kenosha, Wisconsin, and extending southwestly to K.D. Jct., near Bain, Wisconsin, having a length of about 4 miles;

24. A line of railroad beginning at Wyeville, Wisconsin, and extending westerly to Tunnel City, Wisconsin, having a length of about 9 miles;

25. A line of railroad beginning at Duck Creek, Wisconsin, and extending westerly via Shawano to Eland, Wisconsin, having a length of about 60 miles.

**SECOND.** All other property, real, personal and mixed, and all interest therein and with respect thereto, constituting or included in:

A. all other branch lines owned by any Mortgagor and all lines of railroad owned by any Mortgagor crossing or connecting with any of the lines described in clause FIRST, above, or crossing or extending from points on said crossing or connecting lines;

B. all and singular the main tracks owned by any Mortgagor additional to the first main track and used as part of and in connection with any of the main, branch, crossing or connecting lines referred to in clause FIRST above;

C. all and singular the spur tracks, side tracks, turnouts, passing tracks and shop tracks owned by any Mortgagor and used, or provided for use, in connection with any of the main, branch, crossing or connecting lines referred to in clause FIRST, above;

D. all and singular other lines of railroad and tracks now or hereafter owned by any Mortgagor.

**THIRD.** All leases, contracts, agreements, options and other rights to acquire any tangible or intangible property or any interest therein (which property, if owned by any of the Mortgagors, would be subject to the lien and/or security interest of this Mortgage), and all easements, privileges, licenses, rights of way or use, trackage rights and all other interests, rights and privileges, now owned or hereafter acquired by any Mortgagor or in which any Mortgagor now has or may hereafter have any interest, for use upon or in connection with or appertaining to any of the lines of railroad of any of the Mortgagors or relating to the ownership, use or operation of any terminals or union or other stations situated along, or at the terminus of, any of the lines of railroad of any of the Mortgagors, or relating to the use of any telegraph, telephone or other communication facilities along any of the lines of railroad of any of the Mortgagors, including, without

limitation, all right, title and interest of the Mortgagors, to and under the following leases, contracts and agreements:

1. With the Burlington Northern Railroad Company, covering trackage rights between 1st Street and Holden Avenue in the City of Minneapolis, Minnesota, having a length of about 1.00 mile;
2. With the Burlington Northern Railroad Company, covering trackage rights between 3rd Street and Hoffman Avenue in the City of St. Paul, Minnesota, having a length of about 1.00 mile;
3. With the Kansas City Southern Railway Company, covering trackage rights between Airline Junction and Sheffield, Missouri, having a length of about 0.68 miles;
4. With the Consolidated Rail Corporation covering trackage rights between Roosevelt Road and Pershing Road in the City of Chicago, Illinois, having a length of about 2.77 miles;
5. With the Burlington Northern Railroad Company covering trackage rights at Des Moines, Iowa, having a length of about 3.17 miles;
6. With the Iowa Interstate Railroad covering trackage rights at Des Moines, Iowa, having a length of about 2.81 miles;
7. With the Burlington Northern Railroad Company covering trackage rights between Duluth, Minnesota, and Superior, Wisconsin, having a length of about 6.01 miles;
8. With the Escanaba and Lake Superior Railroad Company covering trackage rights at Escanaba, Michigan, having a length of about 1.00 mile;
9. With the Soo Line Railroad Company covering trackage rights at Glenwood Junction, Minnesota, having a length of about 1.00 mile;
10. With the Escanaba and Lake Superior Railroad Company covering trackage rights at Iron Mountain, Michigan, having a length of about 1.30 miles;
11. With the Kansas City Terminal Railroad Company covering trackage rights at Kansas City, Missouri, having a length of about 2.84 miles;
12. With the Burlington Northern Railroad Company covering trackage rights at Minneapolis, Minnesota, having a length of about 2.93 miles;
13. With the Soo Line Railroad Company covering trackage rights at St. Paul, Minnesota, having a length of about 0.74 miles;
14. With the Burlington Northern Railroad Company covering trackage rights at Saunders, Wisconsin, having a length of about 3.00 miles;
15. With the Burlington Northern Railroad Company covering trackage rights at Winona, Minnesota, having a length of about 1.22 miles;
16. With the Winona Bridge Company covering trackage rights at Winona, Minnesota, having a length of about 0.06 miles;
17. With the Indiana Harbor Belt Railroad Company covering trackage rights between Bellwood and Melrose Park, Illinois, having a length of about 1.50 miles;
18. With the Union Pacific Railroad Company covering trackage rights between Council Bluffs, Iowa, and South Omaha, Nebraska, having a length of about 8.73 miles;
19. With the Fox River Valley Railroad covering trackage rights between Duck Creek and Green Bay, Wisconsin, having a length of about 1.30 miles;

20. With the Indiana Harbor Belt Railroad Company covering trackage rights between Elmhurst and Blue Island, Illinois, having a length of about 20.80 miles;
21. With the Soo Line Railroad Company covering trackage rights between Emmitsburg and Hartley, Iowa, having a length of about 43.69 miles;
22. With the Burlington Northern Railroad Company covering trackage rights between Orin Junction and Casper, Wyoming, having a length of about 68.50 miles;
23. With the Union Pacific Railroad Company covering trackage rights between Fremont and Norfolk, Nebraska, having a length of about 95.00 miles;
24. With the Burlington Northern Railroad Company covering trackage rights between Glenwood Junction, Minnesota, and 1st Street North in the City of Minneapolis, Minnesota, having a length of about 3.00 miles;
25. With the Peoria and Pekin Union Railway Company covering trackage rights between Iowa Junction and C&NW Junction in the City of Peoria, Illinois, having a length of about 0.77 miles;
26. With the Chicago Central and Pacific Railroad Company covering trackage rights between LeMars and Sioux City, Iowa, having a length of about 25.95 miles;
27. With the Norfolk Southern Railway Company covering trackage rights between Madison and Bridge Junction, Illinois, having a length of about 2.58 miles;
28. With the Burlington Northern Railroad Company covering trackage rights between Minneapolis, Minnesota, and Saunders, Wisconsin, having a length of about 135.40 miles;
29. With the Soo Line Railroad Company covering trackage rights between Northfield and Faribault, Minnesota, having a length of about 13.42 miles;
30. With the Peoria and Pekin Union Railway Company covering trackage rights between Peoria Junction and Peoria, Illinois, having a length of about 2.02 miles;
31. With the Soo Line Railroad Company covering trackage rights between Polo and Birmingham, Missouri, having a length of about 41.77 miles;
32. With the Soo Line Railroad Company covering trackage rights between Comus and Rosemount, Minnesota, having a length of about 26.99 miles;
33. With the Duluth, Missabe and Iron Range Railway Company covering trackage rights between Saunders and South Itasca, Wisconsin, having a length of about 5.26 miles;
34. With the Wisconsin Central Railroad Company covering trackage rights between Schofield and Rothschild, Wisconsin, having a length of about 1.58 miles.
35. With Western Railroad Properties covering trackage rights between Shawnee and Crandall, Wyoming, having a length of about 45.36 miles;
36. With the Burlington Northern Railroad Company covering trackage rights between Sioux City, Iowa, and Ferry, Nebraska, having a length of about 3.22 miles;
37. With the Burlington Northern Railroad Company covering trackage rights between Minneapolis and St. Paul, Minnesota, having a length of about 10.89 miles;
38. With the Soo Line Railroad Company covering trackage rights between Tunnel City, Wisconsin, and Winona, Minnesota, having a length of about 67.79 miles;
39. With the Elgin, Joliet and Eastern Railway Company covering trackage rights between West Chicago and Ingaltan, Illinois, having a length of about 1.50 miles;

40. With the Wisconsin Central Railroad Company covering trackage rights between Wisconsin Rapids and Necedah, Wisconsin, having a length of about 37.42 miles;

41. With the Wisconsin Central Railroad Company covering trackage rights between Wisconsin Rapids and Nekoosa, Wisconsin, having a length of about 6.56 miles.

**FOURTH.** All other land and interests and estates therein now owned or hereafter acquired by any of the Mortgagors, together with all and singular right, title and interest of each of the Mortgagors in and to: the tenements, rights, easements, hereditaments, rights of way, privileges, liberties, appendages and appurtenances now or hereafter belonging or in any way pertaining to such lands and interests and estates therein (including, without limitation, all rights relating to storm and sanitary sewer, water, gas, electric, railway and telephone services); all development rights, air rights, riparian rights, water, water rights, water stock, oil, gas, minerals, coal and other substances of any kind or character underlying or relating to such lands and interests and estates therein and any interest therein; any street, road, highway or alley, vacated or other, adjoining the land or any part thereof at any time subject to the lien hereof; all strips and gores belonging, adjacent or pertaining to such lands or such interests and estates; and any after-acquired title to any of the foregoing.

**FIFTH.** All right, title and interest of any of the Mortgagors in and to: all buildings, structures and other improvements and any additions and alterations thereto or replacements thereof, now or hereafter built, constructed, installed or located upon any of the lands subject to the lien of this Mortgage; all affixed or installed superstructures, tracks, roadbeds, bridges, trestles, culverts, fences, posts, signs, grade crossings, grade crossing protection signals, ties, rails, fastenings, anchors, braces, chairs, plates, bars, bolts, washers, nuts, spikes, switches and switch devices, electrical, signal and communication facilities and equipment, including traffic control systems, hot box detectors, depots, station buildings, loading or handling facilities, and other miscellaneous buildings, sheds, shanties, and all other structures, fixtures, affixed equipment and facilities, and all other appurtenances thereto of whatsoever kind and description in any manner forming a part of the properties subject hereto, or now or hereafter located thereupon or connected therewith; all furnishings, fixtures, fittings, appliances, apparatus, equipment, machinery, building and construction materials and other articles of every kind and nature whatsoever and all replacements thereof, now or hereafter affixed or attached to, installed in or on, placed upon or used in any way in connection with the complete and comfortable use, enjoyment, occupation, operation, development and maintenance of the lands subject hereto or such buildings, structures and other improvements, including, but not limited to, partitions, furnaces, boilers, oil burners, radiators and piping, plumbing and bathroom fixtures, refrigeration, heating, ventilating, air conditioning and sprinkler systems, other fire prevention and extinguishing apparatus and materials, vacuum cleaning systems, gas and electric fixtures, incinerators, compactors, elevators, engines, motors, generators and all other articles of property which are considered fixtures under applicable law.

**SIXTH.** All equipment (whether or not transportation equipment) and additions, betterments and improvements thereto, all building materials, construction materials, goods, appliances, supplies, blinds, shades, drapes, carpets, floor coverings, office equipment, growing plants and shrubberies, control devices, motor vehicles, tools, furnishings, furniture, lighting, non-structural additions to the lands and improvements subject to the lien of this Mortgage, and all other tangible personal property of every kind or character, together with all replacements thereof, now or hereafter owned by any of the Mortgagors or in which any of the Mortgagors now have or may hereafter have any interest and which become from time to time fixtures to the Mortgaged Property under applicable law.

**SEVENTH.** All option rights and purchase contracts relating to property which, if owned by any of the Mortgagors, would be subject to the lien and/or security interest of this Mortgage.

**EIGHTH.** All rights of each of the Mortgagors in, to and under all leases, licenses, occupancy agreements, concessions and other arrangements, oral or written, now existing or hereafter entered into, whereby any person agrees to pay money or any other consideration for the use, possession or occupancy of or any estate in, any line of railroad or tracks or any other Mortgaged Property or any portion thereof or interest therein (herein collectively referred to as the "Leases"), and all rents, income, profits, benefits, awards

and advantages of, and claims against guarantors under, any thereof and any cash or other securities deposited thereunder to secure performance by such persons of their obligations thereunder.

**NINTH.** All corporate rights, powers, franchises, privileges and immunities now or hereafter owned or possessed by any of the Mortgagors, and all rights of each of the Mortgagors in, to and under all permits, licenses, certificates, approvals and other authorizations which now or at any time hereafter may be necessary for or appurtenant to the use, operation, management, maintenance, renewal, alteration or improvement of any of the lines of railroad of any of the Mortgagors or of any other property now or hereafter subject to the lien and/or security interest of this Mortgage.

**TENTH.** For greater certainty, and without limiting in any way any of the foregoing, all right, title and interest of each of the Mortgagors in and to all real and personal property now or hereafter located at the premises described in Exhibit A hereto.

**ELEVENTH.** All rights of each of the Mortgagors (to the extent the same are assignable), as seller or borrower in, to and under any agreement, contract, commitment, understanding or arrangement pursuant to which any of the Mortgagors have obtained the agreement of any person to pay or disburse any money or any other property or consideration for or in connection with the sale of any of the above-described Mortgaged Property or any portion thereof or interest therein or any borrowing on security of any of the above-described Mortgaged Property or any portion thereof or interest therein.

**TWELFTH.** All rents, issues, profits, royalties, avails, income and other benefits derived or owned, directly or indirectly, by any of the Mortgagors from the foregoing property, estates and interests.

**THIRTEENTH.** All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including proceeds of insurance and condemnation awards.

For purposes of the foregoing clauses **FIRST** through **THIRTEENTH**:

**A.** The term "lines of railroad and tracks" shall include all main or branch or cut-off lines of railroad, and all spur, industrial, switch, connecting, storage, yard, terminal or other tracks, and, unless otherwise specified, "lines of railroad of any of the Mortgagors" shall include all lines of railroad which any of the Mortgagors may own in fee, either solely or jointly, or over which any of the Mortgagors may operate or have any right to operate under any lease or trackage or other agreement.

**B.** Out of the grants hereby made, the last day of the term of each leasehold estate (whether falling within the general or any particular description of property herein) now or hereafter enjoyed by any of the Mortgagors is hereby excepted and reserved.

**C.** It is not intended to subject to the lien and security interest hereof, and, notwithstanding any other provision herein to the contrary, this grant shall be deemed not to apply to:

(i) any leases, contracts, agreements, options, rights or privileges now owned or hereafter acquired by CNTC, or in which CNTC now has or may hereafter have any interest, under or arising out of activities pursuant to the Participation and Loan Agreement, dated as of June 1, 1982, with respect to the Wyoming Powder River Basin Coal Transportation Project and the "Project Agreements", as defined therein as heretofore or hereafter amended or supplemented;

(ii) property of any of the Mortgagors subject to a Lien permitted pursuant to Section 6.02 of the Credit Agreement if, and only for so long as, this grant would constitute a default under the documents granting such Permitted Lien; and

(iii) leasehold interests if, and only for so long as, this grant would constitute a default capable of terminating the leasehold interest granted under the lease documents relating thereto.

**TO HAVE AND TO HOLD** the foregoing railroads, premises, buildings, structures, facilities, properties, real and personal, rights, franchises, estates and appurtenances, hereby conveyed and assigned, or intended to be conveyed or assigned, unto the Mortgagee, its successors and assigns in trust forever.



SUBJECT, HOWEVER, to any Liens permitted by Section 6.02 of the Credit Agreement ("Permitted Liens") encumbering such properties from time to time and to the other encumbrances specifically set forth in Exhibit B hereto (collectively, the "Permitted Encumbrances"); *provided, however*, that the Mortgagee upon the happening and during the continuance of any Event of Default shall have and may exercise any and all rights of any of the Mortgagors, and at the expense of the Mortgagors, to terminate any such Permitted Encumbrance.

Nothing herein contained shall be construed as constituting the Mortgagee a mortgagee-in-possession in the absence of the taking of actual possession of the Mortgaged Property by the Mortgagee. In the exercise of the powers herein granted the Mortgagee, no liability shall be asserted or enforced against the Mortgagee (other than arising out of gross negligence or wilful misconduct of the Mortgagee) all such liability being expressly waived and released by each Mortgagor.

## ARTICLE I CERTAIN REPRESENTATIONS AND COVENANTS

Each Mortgagor covenants, warrants and agrees as follows:

**SECTION 1.1. Payment of Indebtedness; Performance of Obligations; Compliance with Covenants.** The Mortgagors will duly and punctually in accordance with the terms of the Credit Agreement (i) pay the Indebtedness, (ii) perform the Obligations and (iii) observe and comply with each of the terms, conditions, restrictions, warranties, covenants and agreements contained in the Credit Agreement and the other Loan Documents, in each case as amended, modified or supplemented and in effect from time to time.

**SECTION 1.2. After-Acquired Property; Further Assurances.** (a) Any Mortgaged Property at any time hereafter acquired by any of the Mortgagors shall immediately upon the acquisition thereof, and without any further act, become and be subject to the lien of this Mortgage as fully and completely as though now owned by such Mortgagor and specifically described in the granting clauses hereof.

(b) Each of the Mortgagors agrees to make and deliver any and all such further assurances or conveyances or assignments and take all such actions or cause such actions to be taken as may be reasonably required by the Mortgagee to further establish, preserve, protect or perfect the lien of this Mortgage in and to the Mortgaged Property; and each Mortgagor will, at its own expense, do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all and every such further acts, deeds, conveyances, transfers and assurances as shall be reasonably requested by the Mortgagee for such purpose. For the purpose of the immediately preceding sentence, Mortgagee agrees that it shall not require title insurance coverage or surveys for the Mortgaged Property that constitutes lines of track running over railroad rights of way.

**SECTION 1.3. Title to Mortgaged Property; Liens; Valid Security Interest.** (a) Each Mortgagor represents, warrants, covenants and agrees (i) that it enjoys peaceful and undisturbed possession of, and has good title or valid leasehold or other real property interests in and to its Mortgaged Property to the extent necessary for the Mortgagors to operate a continuous and continuing railroad system such as is in operation on the date hereof (together with support, office and other facilities), (ii) that it has a good right, full power and lawful authority to execute and deliver this Mortgage and to mortgage such Mortgaged Property, and (iii) that such Mortgaged Property is free from all Liens other than the Permitted Encumbrances, and, except to the extent aforesaid, warrants the title or other interest in and to same against the lawful claims of all persons whomsoever.

(b) Except for the Permitted Encumbrances: (i) none of the Mortgagors will create or suffer to exist any Lien upon its Mortgaged Property, or any part thereof, or upon the income thereof; and (ii) each Mortgagor will pay or cause to be discharged, or will make adequate provision to satisfy and discharge, promptly and in any case prior to the due date thereof, all lawful claims and demands of mechanics, laborers and others which, if unpaid, might by law be entitled to a lien or charge upon its Mortgaged Property or some part thereof, or the income thereof. Each Mortgagor hereby represents, warrants, covenants and agrees that

none of the Permitted Encumbrances, alone or in the aggregate, do or will materially impair the economic and efficient use by the Mortgagors of any of its Mortgaged Property for railroad purposes.

(c) Each Mortgagor represents, warrants, covenants and agrees (i) that this Mortgage and the other Loan Documents each have been duly executed, acknowledged and delivered and constitute the legal, valid and binding obligation of the Mortgagors party thereto, enforceable against such Mortgagors in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or similar laws affecting creditors' rights generally and except as enforceability may be limited by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law), (ii) (except to the extent the Mortgaged Property may constitute personal property, other than fixtures, under the Uniform Commercial Code, or railroad rolling stock) that the lien and security interest of this Mortgage constitutes, and will at all times constitute, a valid, direct mortgage (or deed of trust) lien of record on and a perfected security interest in the Mortgaged Property, (iii) that Exhibit C contains a complete and accurate list of the States and the counties in each State in which working railroad track or other material Mortgaged Property is located as of the date hereof, (iv) that Exhibit D contains a complete and accurate list of the sections in the State of South Dakota in which working railroad track or other material Mortgaged Property is located as of the date hereof, (v) that the granting clause (together with Exhibit A, which Exhibit contains accurate metes and bounds legal descriptions or other descriptions of certain parcels of property constituting Mortgaged Property) contains a complete and accurate description of the Mortgaged Property, legally sufficient to enable a subsequent purchaser or Mortgagee to identify and establish the Mortgagee's and the applicable Mortgagor's title or other interest in and to all material Mortgaged Property, (vi) that it will not allow at any time any Permitted Encumbrance which contains a more complete legal description of all or any portion of the Mortgaged Property to become of record without first supplementing this Mortgage with such description, recording such supplement of record and confirming to the Mortgagee's satisfaction the validity, perfection and priority of the lien and security interest of this Mortgage, as so supplemented, (vii) that it will, at its sole cost and expense, warrant and defend to the Mortgagee, all persons who shall from time to time be entitled to the benefit of the Obligations, any purchaser at any foreclosure sale and any grantee under a transfer or conveyance in lien of foreclosure or pursuant to the exercise of any power of sale, all right, title or other interest of the Mortgagors, as aforesaid, in and to the Mortgaged Property and the lien and security interest of this Mortgage thereon and therein, against all claims and demands.

**SECTION 1.4. Maintenance of Existence and Mortgaged Property.** Except to the extent to which it is permitted to do otherwise pursuant to Article VI of the Credit Agreement: (i) each Mortgagor shall at all times preserve its corporate existence; (ii) each Mortgagor shall at all times, to the extent needful and proper for the efficient and economic operation of the Mortgaged Property, (a) diligently preserve all the material rights and franchises to it granted and upon it conferred, (b) maintain, preserve and keep, or cause to be maintained, preserved and kept, all of its material property, buildings, facilities, fixtures, appurtenances and other material Mortgaged Property subject to this Mortgage in good repair, working order and condition (ordinary wear and tear excepted), (A) for their intended use, (B) in all material respects in accordance with industry standards and (C) in accordance with and in full compliance with any applicable laws, rules, regulations or standards which may be promulgated by the Department of Transportation, Federal Railroad Administration, the ICC or any other governmental authority which may at the time exercise jurisdiction over any of the Mortgaged Property, (c) keep, or cause to be kept, in accordance with industry practices of like railroads in all material respects, the railroads, premises and other Mortgaged Property subject to this Mortgage supplied with all necessary motive power, rolling stock and equipment, and (d) make, or cause to be made, all necessary repairs, renewals and replacements, alterations, additions, betterments and improvements consistent in all material respects with good industry practices. Each Mortgagor represents, warrants, covenants and agrees that it will not retire, abandon or sell any material Mortgaged Property used or useful in the business of the Mortgagors or materially change the intended use of any material property from the use which it served on the date hereof or for which it is hereafter acquired unless an ordinarily prudent person in the management of his own business properties would change the intended use of such property.

**SECTION 1.5. Insurance.** Each Mortgagor shall, at its sole cost and expense, use its best efforts to maintain insurance policies (i) naming the Mortgagee as an additional insured or loss payee, as the case may be, with respect to the Mortgaged Property in accordance with the provisions of Section 5.02 of the Credit Agreement and (ii) that provide that such policies may not be canceled or otherwise terminated without at least ten days' prior written notice to the Mortgagee and shall permit the Mortgagee to pay any premium therefor within ten days after receipt of any notice stating that such premium has not been paid when due. Each Mortgagor required to maintain insurance policies hereunder shall (a) deliver annually to the Mortgagee an officer's certificate stating and certifying to the expiration date of each such required insurance policy, (b) notify the Mortgagee at least ten business days prior to such expiration date if such Mortgagor intends to permit such policy to expire and (c) notify the Mortgagee within three business days of such Mortgagor's receipt of notice of cancellation or other termination of such insurance policy from the issuer of such insurance policy. The policy or policies of such insurance or certificates of insurance evidencing the required coverages shall be delivered to the Mortgagee. In the event of a casualty loss, the proceeds from such insurance policies shall be paid and applied as specified in Section 3.4 hereof.

**SECTION 1.6. Recording of Mortgage; Opinions.** (a) The Mortgagors, at their own expense, shall cause this Mortgage and all financing statements and other documents to be recorded and filed on the Closing Date or promptly, and in any event no later than ten days, after the Closing Date, and will execute and cause, at their own cost and expense, all mortgages, amendments and instruments supplemental hereto and all financing statements, continuation statements and other documents, to be recorded and filed and to be kept recorded and filed in such manner, at such times after the date hereof and in such places as may be required by law, or reasonably deemed necessary or advisable by the Mortgagee in order fully to establish, preserve, perfect and protect the priority of the lien and security interest of this Mortgage and the rights of the Mortgagee and all other Persons from time to time entitled to the benefit of the Obligations.

(b) The Mortgagors will, at their own expense, furnish to the Mortgagee promptly after the execution and delivery of this Mortgage, and prior to each amendment or supplement to this Mortgage if reasonably requested by the Mortgagee, an opinion or opinions of counsel reasonably satisfactory in form, scope and substance to the Mortgagee, stating that, in the opinion of such counsel, this Mortgage or such amendment or supplement, as the case may be, (i) has been duly executed and delivered (ii) constitutes the valid and binding obligation of each of the Mortgagors, enforceable against each such Mortgagor in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or similar laws affecting creditors' rights generally and except as enforceability may be limited by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law), (iii) creates in favor of the Mortgagee a valid and continuing lien and security interest in and to all material Mortgaged Property and (iv) is in proper form for recording or filing so as to perfect and make effective of record the lien and security interest intended to be created hereby on all material Mortgaged Property.

**SECTION 1.7. Advances.** If any Mortgagor shall fail to comply with the covenants contained herein, or in any of the other Loan Documents, with respect to the procuring of insurance, the payment of taxes, assessments and other charges, or the keeping of the Mortgaged Property in repair and free of Liens, the Mortgagee may make advances to perform the same; and each Mortgagor agrees to repay all sums so advanced upon demand with interest at the rate as provided in Section 2.07 of the Credit Agreement; and all sums so advanced, with interest, shall be secured hereby, but no such advance shall be deemed to relieve any Mortgagor from any default hereunder or thereunder.

**SECTION 1.8. Access by Mortgagee.** Each Mortgagor will (a) during business hours and, upon prior written notice, at other reasonable times, permit access by the Mortgagee and its agents to such Mortgagor's books and records, offices, insurance policies and other papers for examination and for making of copies and extracts; (b) from time to time prepare such reports and schedules as the Mortgagee may reasonably request; and (c) during business hours and, upon prior written notice, at other reasonable times, permit the Mortgagee and its agents to enter on and inspect the Mortgaged Property (it being understood that where appropriate the Mortgagee and its agents shall be required to observe reasonable safety procedures, sign reasonable releases of Grantor liability and agree to be accompanied by employees of the applicable

Mortgagor prior to entering upon such premises). The Mortgagee shall have the absolute right (unless prohibited by law) to share any information it gains from such inspection or verification with the Issuing Bank and any or all of the Lenders.

**SECTION 1.9. *Taxes and Impositions.*** Each Mortgagor agrees that if any Federal, state or municipal government, or any of its subdivisions having jurisdiction, shall levy, assess or charge any tax, assessment or imposition upon this Mortgage or the Obligations or the interest of the Mortgagee in the Mortgaged Property or any part thereof or upon the Mortgagee (excepting therefrom any income tax on interest payments on the principal or any other portion of the Indebtedness other than income taxes imposed by any governmental authority in any jurisdiction solely as a result of the filing of this Mortgage in such jurisdiction), the Mortgagors shall pay all such taxes, assessments and impositions to or for Mortgagee as they become due and payable; *provided, however*, that such payment shall not be required with respect to any tax, assessment, charge, levy or claim so long as the validity or amount thereof shall be contested in good faith by appropriate proceedings, the Mortgagors shall have set aside on their books adequate reserves as required by GAAP with respect thereto and the Mortgagee shall have determined, in its reasonable judgment, that the Obligations and the liens and security interests will not be impaired or endangered thereby in any material respect.

**SECTION 1.10. *Mortgagors' Agreement with Respect to the Leases.*** Without the prior written consent of the Mortgagee, none of the Mortgagors shall amend, modify or otherwise change or terminate any Leases in any respect which in the aggregate could reasonably be expected to have a Material Adverse Effect. Any attempts to amend, modify, change or terminate any such Leases in violation of the provisions of this Section shall be void.

**SECTION 1.11. *Prior Permitted Liens; Other Agreements, etc.*** (a) Each Mortgagor agrees that, except as otherwise permitted under Section 6.02 of the Credit Agreement: (i) it will well and truly pay and discharge or cause to be paid and discharged upon presentation thereof for payment when due the principal of and premium, if any, and interest on, and will duly, timely and fully perform, observe and comply in all material respects with each and every material covenant, agreement, term, condition and provision of, all obligations having, constituting or secured directly or indirectly by a Lien on material Mortgaged Property or any material interest therein prior in right to the lien or the security interest of this Mortgage; (ii) 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 therein or in the coupons attached thereto set forth; and (iii) it will prevent any default or other thing from happening whereby the right might arise to enforce by foreclosure, termination or otherwise any such obligations.

(b) Each Mortgagor agrees that it will not, without the prior written consent of the Mortgagee, permit, suffer, consent to or be a party to any amendment, modification or change of any material provision of any agreement or instrument relating to or evidencing any Permitted Encumbrance.

(c) Each Mortgagor agrees that it will, at its own expense, observe, perform and comply in all material respects with: (i) all material covenants, conditions and restrictions affecting the Mortgaged Property, (ii) all material rights of way or use, privileges, franchises, servitudes, licenses, easements, tenements, hereditaments and appurtenances forming a part of the Mortgaged Property and all material agreements and instruments creating or evidencing the same, any material operating, reciprocal easement, maintenance, use or right of way agreements and other material agreements, whether oral or written and whether benefitting or encumbering the Mortgaged Property or both, in any way relating to the Mortgaged Property and (iii) all material permits, licenses, franchises, approvals, certificates, authorizations, construction contracts, leases of furniture, furnishings and equipment and other material agreements and instruments relating to the Mortgaged Property or to the ownership, occupancy, operation, use or development thereof. Each Mortgagor agrees that it will, at its own expense, perform, observe and comply in all material respects with all conditions and requirements necessary to create, exercise, preserve, protect, renew and extend any and all material permits, rights, licenses, privileges, franchises and concessions (including, without limitation, those relating to land use and development, construction, access, water rights and use, noise, waste disposal

and pollution), which are or may be applicable at any time to any Mortgagor or the Mortgaged Property or which have been or may be granted for the Mortgaged Property or the use thereof.

(d) The Mortgagee shall, upon the request of the applicable Mortgagor (which Mortgagor shall have provided evidence to the Mortgagees' reasonable satisfaction that Section 6.02(b) of the Credit Agreement applies to the transaction for which the delivery of a subordination agreement has been requested), execute and deliver a form of subordination agreement reasonably acceptable to the Mortgagee, which subordinates the lien and security interest of this Mortgage to a lien and/or security interest securing indebtedness permitted by the Credit Agreement and incurred after the date hereof to purchase property or assets as contemplated by Section 6.02(b) of the Credit Agreement.

**SECTION 1.12. Leases, Railroad Leases and Trackage Agreements.** Each Mortgagor agrees that it will duly, fully and timely perform, observe and comply in all material respects with all of its material obligations from time to time required by the terms of, and will pay and discharge or cause to be paid and discharged all sums payable under and by virtue of, any material lease, railroad lease or trackage agreement held by any Mortgagor which is necessary to the efficient and proper conduct of the business and operations of the Mortgagors (except to the extent the validity or amount thereof shall be contested in good faith by appropriate proceedings and Mortgagor shall be appropriate proceedings and Mortgagor shall have set aside reserves in accordance with GAAP). Each Mortgagor agrees that it will not suffer or permit any default for which any such lease, railroad lease or trackage agreement may be terminated, so that the interests of the Mortgagors in all such leases, railroad leases and trackage agreements shall be preserved unimpaired.

**SECTION 1.13. Mechanic's Liens, etc.** Each Mortgagor agrees that, except as otherwise permitted under Section 6.02 of the Credit Agreement: (i) within 60 days after the same shall become secured by a Lien on the Mortgaged Property, it will pay, or cause to be discharged, or will make adequate provision for the prompt satisfaction or discharge of, all claims and demands of mechanics, laborers and others; and (ii) it will not postpone the payment of any sums for which Liens of mechanics, materialmen, suppliers, vendors or others or rights thereto have been incurred, or enter into any contract under which payment of such sums is postponable (unless such contract expressly provides for the legal, binding and effective waiver of any such Liens or rights thereto for the period of such postponement), in either case, for more than 60 days after the completion of the action giving rise to such Liens or rights thereto.

**SECTION 1.14. Notice of Default, Litigation, etc.** Each Mortgagor shall promptly give notice to the Mortgagee of:

- (a) the occurrence of any Default or Event of Default hereunder or under any other Loan Document;
- (b) any notice of default given, or any legal action taken against any Mortgagor by any person with respect to any default or claimed default, under or in respect of any Permitted Encumbrance or any lease, railroad lease or trackage agreement if, as a consequence of such default, any Mortgagor could suffer the loss of ownership or use of any material Mortgaged Property;
- (c) any litigation, arbitration, investigation or proceeding previously not disclosed by the Mortgagors to the Mortgagee which has been instituted or, to the knowledge of any Mortgagor, is threatened against any Mortgagor or the Mortgaged Property and which could reasonably be expected to result in a Material Adverse Effect;
- (d) any material adverse development which shall occur in any litigation, arbitration, investigation or proceeding previously disclosed by the Mortgagors to the Mortgagee;
- (e) any actual or threatened condemnation or other taking, whether for a temporary or permanent use, or any negotiations with respect to any taking of, or any loss of or substantial damage to, any material portion of the Mortgaged Property;

specifying, in each case, the action the Mortgagors have taken and propose to take with respect to such condition or event.

**SECTION 1.15. Hazardous Wastes.** Each Mortgagor represents, warrants, covenants and agrees that it will:

(a) use due diligence not to permit (except in compliance with all laws, ordinances and pertaining thereto), any toxic or hazardous materials or substances (including, without limitation, asbestos, chemicals, flammable explosives, radioactive materials, and any substances defined as or included in the definition of "hazardous substances", "hazardous waste", "hazardous materials", or "toxic substances" under any Hazardous Materials Laws) ("Hazardous Waste") to be placed, held, located, released, transported or disposed of on, under or at any of the Mortgaged Property if to do so could reasonably be expected to result in a Material Adverse Effect. For purposes hereof the term "Hazardous Materials Laws" shall mean any applicable Federal, state or local laws, ordinances, or regulations relating to any hazardous Waste including, but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Resource Conservation and Recovery Act, the Federal Clean Water Act, the Federal Clean Air Act, the Toxic Substances Control Act, the Solid Waste Disposal Act, the Safe Drinking Water Act, the Occupational Health and Safety Act and any so-called "Superfund" or "Superlien" laws;

(b) promptly take any action reasonably requested by the Mortgagee as a result of a defined concern, including, without limitation, the execution of engineering tests, at such Mortgagor's sole cost and expense, to confirm that no Hazardous Waste is stored, located, held, released or disposed of on the Mortgaged Property (except in compliance with all laws, ordinances and regulations pertaining thereto);

(c) remove, at such Mortgagor's sole cost and expense, any Hazardous Waste on, under or at any of the Mortgaged Property if, as and when removal is required under any legal requirement or if, in the Mortgagee's reasonable discretion, such removal is reasonably necessary or desirable and, any removal of Hazardous Waste on, in, under or at any of the Mortgaged Property shall be performed in compliance with any legal requirements and any additional requirements imposed by the Mortgagee in its reasonable discretion; and

(d) provide the Mortgagee with written notice, within 10 business days, of any of the following: (i) upon such Mortgagor's obtaining knowledge (A) of the presence of any material amounts of Hazardous Waste on, under or at any of the ten most material Mortgaged Properties which are not in compliance with all applicable legal requirements or (B) of the presence or any actual or threatened release of Hazardous Waste which reasonably could be expected to result in the imposition of a liability in excess of \$10,000,000 pursuant to Hazardous Materials Laws or otherwise to have a Material Adverse Effect and (ii) upon such Mortgagor's obtaining knowledge of the incurrence of any material cost or expense by any Federal, state or local governmental authority in connection with the assessment, containment or removal of any Hazardous Waste at or from any of the Mortgaged Property by any such governmental authority in connection with any Hazardous Waste on, in, under or at any of the Mortgaged Property.

## **ARTICLE II REMEDIES AND OTHER RIGHTS**

**SECTION 2.1. Remedies.** If an Event of Default shall have occurred and be continuing, then and in each and every such case the Mortgagee, personally, or by its agents or attorneys, may, at the expense of the Mortgagors and the Mortgaged Property, at any time and from time to time, to the fullest extent allowed by applicable law:

(a) enter into and upon all or any part of the Mortgaged Property, including, without limitation, all the railroads, properties, buildings, facilities, premises and lands, and all the rights, title, estates, interests and franchises hereby mortgaged or intended so to be, and each and every part thereof, and exclude the Mortgagors therefrom; use, operate, manage and control all or any part of the Mortgaged Property, regulate the tolls for the transportation of passengers and freight thereon, and conduct the business thereof; by purchase, repairs or construction, maintain and restore, and insure or keep insured.

all or any part of the Mortgaged Property and any property used in connection with all or any part of the Mortgaged Property, or convert all or any part of the Mortgaged Property to any other use which the Mortgagee shall reasonably determine; make all necessary, useful or desirable repairs, renewals, replacements, alterations, additions, betterments and improvements, as the Mortgagee may reasonably determine; manage the Mortgaged Property and carry on the business and exercise all rights and powers of the Mortgagors, either in the name of any of the Mortgagors or otherwise, as the Mortgagee shall reasonably determine and as may be required by applicable law; and collect and receive all tolls, earnings, income, rents, issues, profits and proceeds of the same and every part thereof;

(b) foreclose upon, sell, assign, transfer and deliver, subject to the then existing Permitted Encumbrances thereon, all or any portion of the Mortgaged Property, including, without limitation, all the railroads, properties, buildings, facilities, premises and lands, and all the rights, title, estates, interests, franchises, leases, leasehold interests, contracts and appurtenances, and all other property of every name and nature, and all or any estate, right, title and interest, claim and demand therein, and right of redemption thereof; at any private sale or public auction with or without demand advertisement or notice (except as may be required by applicable law) of the date, time and place of sale and any adjournment thereof, for cash or credit or other property, for immediate or future delivery and for such price or prices and on such terms as the Mortgagee, in its sole discretion, may determine, or as may be required by applicable law;

(c) proceed to protect and to enforce its rights and the rights of all other Persons entitled from time to time to the benefit of the Obligations under this Mortgage, by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement contained herein or in any other Loan Document, or in aid of the execution of any power herein or therein granted, or for the foreclosure of this Mortgage, or for the enforcement of any other appropriate legal or equitable remedy, as the Mortgagee shall deem effectual to protect and enforce any of its rights or duties under this Mortgage or the rights of the Mortgagee and all other Persons entitled from time to time to the benefit of the Obligations;

(d) exercise any rights and remedies available to them under applicable law upon default in the payment of Indebtedness, including any right or remedy available to them as secured parties under the Uniform Commercial Code of any jurisdiction in which any portion of the Mortgaged Property is located. Mortgagors shall, promptly upon request by the Mortgagees, assemble the Mortgaged Property, or any portion thereof generally described in such request, and make it available to the Mortgagee at such place or places designated by the Mortgagee and reasonably convenient to both Mortgagors and the Mortgagee. If the Mortgagee elects to proceed under the Uniform Commercial Code to dispose of portions of the Mortgaged Property, the Mortgagee, at its option, may give Mortgagors notice of the time and place of any public sale of any such property, or of the date after which any private sale or other disposition thereof is to be made, by sending notice by registered or certified first class mail, postage prepaid, to Mortgagors at least five days before the time of the sale or other disposition. If any notice of any proposed sale, assignment or transfer by the Mortgagee of any portion of the Mortgaged Property or any interest therein is required by law, each Mortgagor conclusively agree that five days' notice to such Mortgagor of the date, time and place (and, in the case of a private sale, the terms) thereof is reasonable.

(e) exercise any remedies available under the other Loan Documents pursuant to the terms thereof;  
or

(f) any combination of the foregoing.

In case of any sale of the Mortgaged Property, or of any part thereof, pursuant to any judgment or decree of any court, power of sale or otherwise in connection with the enforcement of any of the terms of this Mortgage, the Obligations if not previously due, shall at once become and be immediately due and payable. also in the case of any such sale, the Mortgagee and all other Persons entitled to the benefit of the Obligations may bid and become the purchaser, and the purchaser or purchasers, for the purpose of making settlement for or payment of all or a portion of the purchase price, shall be entitled to apply thereto all or any of the

Indebtedness and any claims for interest or any other amounts owing by any Mortgagor. If at any foreclosure proceeding the Mortgaged Property shall be sold for a sum less than the total amount of indebtedness for which judgment is therein given, the Mortgagee shall be entitled to the entry of a deficiency decree against the Mortgagors and against the property of the Mortgagors for the amount of such deficiency.

**SECTION 2.2. Notice of Sale.** Except as otherwise provided in Section 2.1(d), any notice of any sale pursuant to any provision of this 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

(a) published once in each week for four successive weeks prior to such sale in a newspaper printed in the English language and customarily published on each Business Day and of general circulation in the City of Chicago, State of Illinois, and in a like newspaper so published and of general circulation in the Borough of Manhattan, City and State of New York, or

(b) provided in such other manner as may be required by law.

**SECTION 2.3. Adjournment of Sale.** The Mortgagee may adjourn from time to time any sale to be made under the provisions of this 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 2.4. Conveyance Upon Sale.** Upon the completion of any sale or sales under this Mortgage, the Mortgagee 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 or other documents of conveyance. The Mortgagee is hereby irrevocably appointed the true and lawful attorney of each of the Mortgagors, in their name and stead to make all necessary deeds, bills of sale and conveyances of the property and franchises thus sold; and may substitute one or more Persons with like power, each Mortgagor hereby ratifying and confirming all that its said attorney or attorneys, or such substitute or substitutes, shall lawfully do by virtue hereof. Nevertheless, each Mortgagor, if so requested by the Mortgagee, shall ratify and confirm such sale by executing and delivering such quitclaim deeds of conveyance, quitclaim bills of sale or other instruments of assignment and transfer without representations or warranties as may be reasonably requested by the Mortgagee or any such purchaser.

**SECTION 2.5. Sale as an Entirety, etc.** In the event of any sale, whether 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 may, but shall not be required to, be sold in one parcel, and as an entirety.

Each Mortgagor, for itself and all Persons hereafter claiming through or under them, 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 Mortgagee or any court in which the foreclosure of this Mortgage or the administration of the trusts hereby created is sought, shall have the right as aforesaid to sell, in a commercially reasonable manner or as otherwise provided under applicable law, the entire property of every description comprised in the Mortgaged Property, as a whole in a single lot or parcel, except as otherwise may be required by any governmental authority having jurisdiction thereover.

Any such sale or sales made under or by virtue of this 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, against each of the Mortgagors, their successors and assigns, and against any and all Persons claiming the premises and property sold, or any part thereof or any interest whatsoever therein, from, through or under any of the Mortgagors, their successors or assigns.

In addition to, not in limitation of, the other provisions hereof and the rights and privileges conferred herein, except as otherwise may be required by any governmental authority having jurisdiction thereover, the personal property and chattels conveyed, or intended to be conveyed, by or pursuant to this Mortgage



may be considered, and be disposed of in one proceeding or sale hereunder, as real estate for the purposes of this Mortgage, and may be held and taken to be fixtures and appurtenances of the lines of railroad of the Mortgagors, and a part of such lines of railroad, and may be used and sold therewith and not separate therefrom.

Each Mortgagor agrees that in any sale of the Mortgaged Property, or any portion thereof or interest therein, the Mortgagee is hereby authorized to comply with any limitation or restriction in connection with such sale as it may be advised by counsel is necessary in order to avoid any violation, and comply with any applicable provision, of applicable law (including compliance with any applicable laws and procedures which may limit the number or restrict the character of prospective bidders and purchasers), or in order to obtain any required approval of the sale or of the purchaser or of any other aspect of any such transaction by any governmental agency or official (including the Interstate Commerce Commission), and each Mortgagor further agrees that such compliance shall not result in any such sale being considered not to have been made in a commercially reasonable manner nor shall the Mortgage or any person entitled from time to time to the benefit of the Obligations be liable or accountable to any Mortgagor, or any person claiming by, through or under any Mortgagor or any owner, holder or beneficiary of or under any Permitted Encumbrance or otherwise, for any discount allowed by reason of the fact that any Mortgaged Property is sold in compliance with any such law, regulation, procedure, restriction or limitation.

**SECTION 2.6. Application of Proceeds.** The proceeds of any exercise of remedies hereunder, whether made under the right of entry or the power of sale herein granted or pursuant to judicial proceedings or otherwise, together with any other sums which then may be held by the Mortgagee under any of the provisions of this Mortgage, shall be applied as follows:

**FIRST**, to the payment of all costs and expenses incurred by the Mortgagee in connection with such exercise of remedies or otherwise in connection with this Mortgage, any other Loan Document or any of the Obligations, including, but not limited to, all court costs and the reasonable fees and expenses of its agents and legal counsel, the repayment of all advances made by the Mortgagee hereunder or under any other Loan Document on behalf of any of the Mortgagors and any other costs or expenses incurred by the Mortgagee in connection with the exercise of any right or remedy hereunder or thereunder;

**SECOND**, to the payment in full of the Obligations owed to the Issuing Bank and the Lenders in respect of Loans made by them and outstanding and the amounts owing in respect of any outstanding Letter of Credit Disbursement, pro rata as among the Issuing Bank and the Lenders in accordance with the amount of such Obligations owed to them;

**THIRD**, to the payment and discharge in full of the Obligations (other than those referred to above and below), pro rata as among the Mortgagee, the Issuing Bank and the Lenders in accordance with the amount of such Obligations owed to them;

**FOURTH**, to the payment in full of the Obligations owed to any Lender or Lenders in respect of each interest rate protection agreement entered into pursuant to Section 5.17 of the Credit Agreement; and

**FIFTH**, to the Mortgagors, their successors or assigns, or as a court of competent jurisdiction may otherwise direct.

The Mortgagee shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Mortgage. Upon any sale of the Mortgaged Property (including, without limitation, pursuant to a power of sale, a right granted by law or under a judicial proceeding), the receipt of the Mortgagee or of the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Mortgaged Property so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Mortgagee or such officer or be answerable in any way for the misapplication thereof.

**SECTION 2.7. Waiver of Rights.** Each Mortgagor agrees, to the fullest extent allowed by applicable law, that it will not at any time insist upon or plead, or in any manner whatever claim, or take the benefit or

advantage of, any exemption, stay or extension law or any so-called "moratorium law", now or at any time hereafter in force; nor will it claim, take or insist upon any benefit or advantage from any law now or hereafter in force providing for the valuation or appraisal of the Mortgaged Property, or any part thereof, prior to any disposition thereof to be made pursuant to any provision herein contained, or to the decree, judgment or order of any court of competent jurisdiction; nor will it insist upon, or be entitled to, the fixing of an upset price upon the Mortgaged Property, or any part thereof, in connection with any such sale; nor after any such disposition will it claim or exercise any right under any statute heretofore or hereafter enacted, or otherwise, to redeem the Mortgaged Property so sold or any part thereof; and each Mortgagor, for itself and all persons claiming under or through it, hereby expressly waives, to the fullest extent allowed by applicable law, all such rights and all benefit and advantage of any such law or laws, and it covenants and agrees, to the fullest extent allowed by applicable law, that it will not hinder, delay or impede the execution of any power herein granted or delegated to the Mortgagee, but will suffer and permit the execution of every such power as though no such law or laws had been made or enacted. In addition, each Mortgagor, for itself and all persons claiming under or through it, to the fullest extent allowed by applicable law, hereby (a) agrees that, if any Mortgaged Property proposed to be conveyed, assigned or transferred hereunder should be situated in two or more states, countries or judicial districts, the Mortgagee shall have full power in connection with such conveyance, assignment or sale to select in which state, county or judicial district any or all such Mortgaged Property shall be conveyed, assigned or transferred, (b) waives, on behalf of itself and all persons now or hereafter interested in the Mortgaged Property, to the fullest extent allowed by applicable law, the provisions of any statutes or laws of the jurisdiction in which the Mortgaged Property is located that restrict the right of the Mortgagee to offer for sale more than a specified amount of the Mortgaged Property, and the Mortgagee may offer for sale any or all Mortgaged Property at any time regardless of the manner in which it may be described and (c) waives, on behalf of itself and all persons now or hereafter interested in the Mortgaged Property, to the fullest extent allowed by applicable law, the provisions of any statutes or laws of the jurisdiction in which Mortgaged Property is located, providing for forfeiture for failure to note of record an assignment of indebtedness secured by mortgages, deeds of trust or security interests.

**SECTION 2.8. Abandonment Not Waiver.** In case the Mortgagee shall have proceeded to enforce any right under this Mortgage by foreclosure, entry or otherwise, and such proceeding shall have been discontinued or abandoned because of waiver or for any other reason, or shall have been determined adversely to the Mortgagee, then, and in every such case, each Mortgagor and the Mortgagee shall severally and respectively be restored to their former positions and rights hereunder in respect of the Mortgaged Property, and all rights, remedies and powers of the Mortgagee and of each Mortgagor shall continue as though no such proceeding had been taken.

**SECTION 2.9. Delay or Omission Not Waiver.** No delay or omission of the Mortgagee to exercise 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 any such Event of Default, or an acquiescence therein; and every power and remedy given by this Mortgage may be exercised from time to time, and as often as may be deemed expedient, by the Mortgagee.

**SECTION 2.10. Appointment of Receiver.** If an Event of Default shall have occurred and be continuing, the Mortgagee shall, as a matter of right, be entitled to the appointment of a receiver (who may be the Mortgagee or any successor or nominee thereof) for all or any part of the Mortgaged Property, whether such receivership be incidental to a proposed sale of Mortgaged Property or the taking of possession thereof or otherwise, and Mortgagor hereby consents to the appointment of such a receiver and will not oppose any such appointment. Any receiver appointed for all or any part of the Mortgaged Property shall be entitled to exercise all the rights and powers with respect to the Mortgaged Property to the extent instructed to do so by the Mortgagee.

**SECTION 2.11. Suits Against Governmental Action.** If an Event of Default shall have occurred and be continuing, the Mortgagee shall have the 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 they 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, 10

the judgment of the Mortgagee, impair the security hereunder or be prejudicial to the Mortgagees or to any person entitled from time to time to the benefit of the Obligations.

**SECTION 2.12. Leases.** The assignment of Leases contained in the granting clause of this Mortgage shall be fully operative without any further action on the part of any Mortgagor or the Mortgagee and, for so long as an Event of Default shall have occurred and be continuing, shall entitle the Mortgagee to all rents and profits, whether or not Mortgagee takes possession of the Mortgaged Property. If an Event of Default shall have occurred and be continuing, each Mortgagor hereby further grants to the Mortgagee the right (i) to enter upon and take possession of the Mortgaged Property for the purpose of collecting such rents and profits, (ii) to dispossess by the usual summary proceedings any tenant defaulting in the payment thereof to the Mortgagee, (iii) to let the Mortgaged Property or any part thereof, and (iv) to apply the rents and profits, after payment of all necessary charges and expenses, toward payment of the Indebtedness in such priority and proportions as the Mortgagee, in its discretion, shall deem proper, or to the operation, maintenance and repair of the Mortgaged Property, in each case whether or not sale or foreclosure has been instituted. Such assignment and grant shall continue in effect until the Indebtedness has been fully paid and shall be cumulative of all other rights and remedies available to the Mortgagee under this Mortgage or otherwise. The foregoing provisions shall constitute an absolute and present assignment of the rents and profits to the Mortgagee, subject, however, to the conditional permission hereby given to the Mortgagor to collect the rents and profits until the occurrence and during the continuation of an Event of Default, when such conditional permission shall automatically terminate. Any rents and profits collected by any Mortgagor, or such portion of such rents and profits sufficient to discharge all current sums due on the Indebtedness, shall be held by such Mortgagor in trust for use in payment of the Indebtedness. Nothing contained in this Section shall be construed as imposing on the Mortgagee any of the obligations of the lessor or lessee under the Leases or any other leasehold rights covered hereby.

**SECTION 2.13. No Merger.** In the event of a foreclosure of this Mortgage or any other mortgage or deed of trust securing the Obligations, the Obligations then due the Lenders, the Issuing Bank or the Mortgagee shall not be merged into any decree of foreclosure entered by the court, and Mortgagee may concurrently or subsequently seek to foreclose one or more mortgages or deeds of trust which also secure said Obligations.

**SECTION 2.14. Remedies Not Exclusive.** The Mortgagee shall be entitled to enforce payment and performance of the Obligations and to exercise all rights and powers under this Mortgage or other agreement or any laws now or hereafter in force, notwithstanding that some or all of the Obligations may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or pursuant to the power of sale of other powers herein contained, shall prejudice or in any manner affect the Mortgagee's right to realize upon or enforce any other security now or hereafter held by the Mortgagee, it being agreed that the Mortgagee shall be entitled to enforce this Mortgage and any other security now or hereafter held by the Mortgagee in such order and manner as the Mortgagee may in its absolute discretion determine. No remedy herein conferred upon or reserved to the Mortgagee is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given to the Mortgagee or to which the Mortgagee may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Mortgagee.

### **ARTICLE III POSSESSION, USE AND RELEASE OF MORTGAGED PROPERTY**

**SECTION 3.1. Mortgagor's Right of Possession.** So long as no Event of Default shall have occurred and be continuing, the Mortgagors shall be permitted to remain in full possession, enjoyment and control of the Mortgaged Property and to receive, take and use all rents, issues, tolls, profits, dividends, income and proceeds thereof subject always to the observance and performance of the terms of this Mortgage and the other Loan Documents.

**SECTION 3.2. Release of Mortgaged Property.** In addition to the release provision set forth in the Credit Agreement, so long as no Default shall have occurred and be continuing and subject to the observance and performance of the terms of this Mortgage and Sections 2.12 and 6.05 of the Credit Agreement, the Mortgagors may sell, exchange, transfer, assign, convey, grant an interest in or otherwise dispose of any Mortgaged Property then subject to the lien of this Mortgage, free from the lien of this Mortgage and without the necessity of any release instrument by the Mortgagee, for arm's-length cash proceeds if such gross cash proceeds amount to less than \$50,000 in respect of each such disposition and do not exceed \$4,000,000 in aggregate during any fiscal year; and upon such disposition and notification thereof to the Mortgagee, such lien on such Mortgaged Property shall be deemed to be released without any further action of the Mortgagee or any Mortgagor. If any Mortgagor proposes to sell, exchange, transfer, assign, convey, grant an interest in or otherwise dispose of any Mortgaged Property in accordance with the Credit Agreement (including, without limitation, Section 6.05 thereof), Mortgagee hereby agrees to release, at the Mortgagors' sole cost and expense, such Mortgaged Property upon satisfaction of the conditions contained therein.

Simultaneously with the delivery of the financial statements set forth in Section 5.04(a) of the Credit Agreement, the Mortgagors shall deliver to the Mortgagee a certificate of a Financial Officer setting forth in reasonable detail (i) the property other than property which was obsolete or unfit for any use disposed of under this Section during the preceding fiscal year, (ii) the aggregate cash proceeds received in connection with such dispositions and (iii) the amount of indebtedness outstanding, if any, on each such property under a prior lien thereon at the respective times of disposition thereof. Except as otherwise provided in the second to last sentence of this paragraph, the certification by a Mortgagor in any instrument of sale, conveyance, exchange, transfer, assignment, grant or other disposition made pursuant to this Section that the property or interest thereby sold, conveyed, exchanged, transferred, assigned, granted or otherwise disposed of may be so sold, conveyed, exchanged, transferred, assigned, granted or otherwise disposed of free from the lien of this Mortgage shall conclusively protect the grantee, transferee or assignee against any claim based upon the lien of this Mortgage and shall be binding upon the Mortgagee. No third party accepting any such instrument containing any such certification from any Mortgagor in connection with the disposition of any Mortgaged Property for arm's-length cash proceeds which do not exceed \$50,000 shall be required to inquire whether the provisions of this Section have been complied with. Nothing contained in this Section shall, however, relieve any person of liability for fraud or wilful misconduct. If requested by the applicable Mortgagor, the Mortgagee shall provide an instrument in writing reasonably acceptable to such Mortgagor confirming that such Mortgaged Property is free of the lien and security interest of this Mortgage pursuant to this Section 3.2.

**SECTION 3.3. Abandoned Property.** The Mortgagee shall upon request, from time to time and at the sole cost and expense of the Mortgagors, release from the lien of this Mortgage any Mortgaged Property which is to be or shall have been surrendered or abandoned by any Mortgagor, including without limitation any tracks and structures and any franchise or portion thereof which are to be or shall have been surrendered or abandoned by it; *provided* (a) that such surrender or such abandonment of Mortgaged Property shall have been duly authorized and permitted by all public and governmental authorities, if any, having jurisdiction thereover, (b) that the Mortgagors, so far as may be permitted by law, shall retain all franchises, tracks and structures necessary or proper to entitle them to maintain and operate their remaining railroad system, and (c) that, in the reasonable opinion of the Mortgagee, the value of the security afforded by this Mortgage shall not be, in any way, materially impaired or prejudiced thereby.

**SECTION 3.4. Casualty Loss.** If any portion of the Mortgaged Property shall be destroyed or damaged by fire or any other casualty, resulting in a loss in excess of \$5,000,000, the Mortgagors shall give immediate notice to the Mortgagee of any such destruction or damage, who may make proof of loss if not promptly made by the Mortgagors, and each insurance company concerned is hereby authorized and directed by the Mortgagors to make payment for any loss in excess of \$5,000,000 directly to the Mortgagee. In the case of any loss of less than \$5,000,000, the Mortgagors shall have the right to adjust such loss independently of the Mortgagee, and available proceeds net of any costs and expenses of the Mortgagors or Mortgagee, shall be paid directly to and applied by the Mortgagors, at the election of the Mortgagors, (i) to the repair, restoration and replacement of the Mortgaged Property, (ii) to the purchase of capital assets or to other Capital Expenditures resulting in or improving capital assets or (iii) to the prepayment of Loans in accordance with

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the terms set forth in Section 2.12(f) of the Credit Agreement as they relate to the application of proceeds. In the event of any loss in excess of \$5,000,000, the Mortgagee shall participate in the adjustment of such loss, available proceeds in respect of such loss shall be paid to the Mortgagee and such proceeds, net of any costs and expenses of the Mortgagors or the Mortgagee, shall be applied at the election of the Mortgagors (i) to the repair, restoration and replacement of the Mortgaged Property, (ii) to the purchase of capital assets or to other Capital Expenditures resulting in or improving capital assets or (iii) to the prepayment of Loans in accordance with the terms set forth in Section 2.12(f) of the Credit Agreement as they relate to the application of proceeds; *provided, however*, that if the amount of any loss exceeds \$20,000,000, such proceeds shall not be applied to the purchase of capital assets or other Capital Expenditures resulting in or improving capital assets without Mortgagee's consent. In the case of the repair, restoration and replacement of Mortgaged Property or the purchase of capital assets or other Capital Expenditure as referred to above, the Mortgagors shall in each case involving the application of insurance proceeds in excess of \$5,000,000 provide the Mortgagee with a certification reasonably satisfactory to the Mortgagee that the fair value of such repair, restoration, replacement or resulting capital asset is not less than the value of such proceeds applied thereto.

Notwithstanding the foregoing, upon the occurrence and during the continuance of an Event of Default all insurance proceeds in excess of \$100,000 shall be paid to the Mortgagee, and such proceeds, net of any costs and expenses, of the Mortgagors and the Mortgagee, shall be applied as directed by the Mortgagee in its sole discretion (i) to the repair, restoration and replacement of the Mortgaged Property, (ii) to the purchase of capital assets or to other Capital Expenditures resulting in or improving capital assets or (iii) to the prepayment of Loans in accordance with the terms set forth in Section 2.12(f) of the Credit Agreement as they relate to the application of proceeds.

**SECTION 3.5. Condemnation.** (a) Immediately upon obtaining knowledge of the institution of any proceedings for the condemnation or taking by eminent domain or injury for public use of the Mortgaged Property, or any portion thereof, where the amount in controversy exceeds \$5,000,000, the Mortgagors shall notify the Mortgagee of the pendency of such proceedings. The Mortgagee may participate in any such proceedings where the amount in controversy exceeds \$5,000,000, and the Mortgagors shall from time to time deliver to the Mortgagee all instruments requested by it to permit such participation. Each Mortgagor shall, at its expense, diligently prosecute any such proceedings and shall consult with the Mortgagee, its attorneys and experts and cooperate with it in any defense of any such proceedings.

(b) Each Mortgagor hereby assigns to Mortgagee, as additional security, all awards of damage resulting from such condemnation proceedings or the taking by eminent domain or injury to the Mortgaged Property for public use. In the event that the proceeds of such awards is less than \$5,000,000, such proceeds, net of any costs and expenses of the Mortgagors or the Mortgagee, shall be paid directly to and applied by the Mortgagor's, at the election of the Mortgagor's, (i) to the restoration and replacement of the Mortgaged Property, (ii) to the purchase of capital assets or to other Capital Expenditures resulting in or improving capital assets or (iii) to the repayment of the Loans in accordance with the terms set forth in Section 2.12(f) of the Credit Agreement as they relate to the application of proceeds. In the event of that the proceeds of such award is in excess of \$5,000,000, such proceeds net of any costs and expenses of the Mortgagors or the Mortgagee, shall be applied at the election of the Mortgagors (i) to the restoration and replacement of the Mortgaged Property, (ii) to the prepayment of Loans in accordance with the terms set forth in Section 2.12(f) of the Credit Agreement as they relate to the application of proceeds or (iii) to the purchase of capital assets or to other Capital Expenditures resulting in or improving capital assets; *provided, however*, that if the amount of any loss exceeds \$20,000,000, such proceeds shall not be applied to the purchase of capital assets or other Capital Expenditures resulting in or improving capital assets without Mortgagee's consent. In the case of the purchase of capital assets or other Capital Expenditure as referred to above, the Mortgagors shall in each case involving the application of awarded proceeds in excess of \$5,000,000 provide the Mortgagee with certification reasonably satisfactory to the Mortgagee that the fair value of such resulting capital asset is not less than the value of such proceeds applied thereto.

Notwithstanding the foregoing, upon the occurrence and during the continuance of an Event of Default all award proceeds in excess of \$100,000, net of any costs and expenses of the Mortgagors and the Mortgagee, shall be applied (i) to the restoration and replacement of the Mortgaged Property, (ii) to the purchase of

capital assets or to other Capital expenditures resulting in or improving capital assets, or (iii) to the prepayment of Loans in accordance with the term set forth in Section 2.12(f) of the Credit Agreement as they relate to the application of proceeds or as otherwise directed by the Mortgagee in its sole discretion.

#### ARTICLE IV MISCELLANEOUS

**SECTION 4.1. *Nature of Instrument.*** This instrument may be construed as a mortgage, deed of trust, security agreement (within the meaning of the Uniform Commercial Code of the applicable state), chattel mortgage, conveyance, assignment, pledge, financing statement, hypothecation or contract, or any one or more of them, in order fully to effectuate the lien hereof and the purposes and agreements herein set forth. It is the intention of the parties hereto that this Mortgage shall constitute, in addition to a real property mortgage and an assignment of leases and rents, a security agreement within the meaning of the Uniform Commercial Code of the State in which the Mortgaged Property is located. The Mortgagee shall have, therefore, in addition to all the rights and remedies provided in the Credit Agreement, this Mortgage and the other Loan Documents, all the rights and remedies of a secured party under the aforementioned Uniform Commercial Code. Notwithstanding the filing of a financing statement covering any of the Mortgaged Property in the records normally pertaining to personal property, all of the Mortgaged Property, for all purposes and in all proceedings, legal or equitable, shall be regarded, at the Mortgagee's option (to the extent permitted by law), as part of the real property and improvements thereon whether or not at such time physically attached to the real property and improvements thereon. The mention in any such financing statement of any of the Mortgaged Property shall never be construed as in any way derogating from or impairing this declaration and it is the hereby stated intention of the parties that any such mention in a financing statement is hereby declared to be for the protection of the Mortgagee in the event any court shall at any time hold that notice of the Mortgagee's priority of interest, to be effective against any third party, including the Federal government and any authority or agency thereof, must be filed in the Uniform Commercial Code records. Pursuant to the provisions of the Uniform Commercial Code, each Mortgagor hereby authorizes the Mortgagee, without the signature of such Mortgagor, to execute and file financing and continuation statements if the Mortgagee shall determine, in its reasonable discretion, that such are necessary or advisable in order to perfect its security interest in the equipment covered by this Mortgage, and the Mortgagors shall pay to the Mortgagee, on demand, any expenses incurred by the Mortgagee in connection with the preparation, execution, and filing of such statements that may be filed by the Mortgagee.

**SECTION 4.2. *Fixture Filing Tax Identification Numbers.*** Certain of the Mortgaged Property is or will become fixtures on the real property which is a part of the Mortgaged Property described or referred to in this Mortgage, and this Mortgage upon being filed for record in the real estate records of the county wherein such fixtures are situated shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Mortgaged Properties which are or may become fixtures. The Tax Identification Numbers of CNTC, MRPI, NWL and WTL are, respectively, 36-2725945, 36-3163714, 36-2581537, 36-2581538.

**SECTION 4.3. *Security Interest Absolute.*** All rights of the Mortgagee hereunder, the security interest granted hereunder, and all obligations of the Mortgagors hereunder, shall be absolute and unconditional irrespective of (a) any lack of validity or enforceability of the Credit Agreement, any agreement with respect to any of the Obligations or any other agreement or instrument relating to any of the foregoing, (b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Obligations, or any other amendment or waiver of or any consent to any departure from the Credit Agreement or any other agreement or instrument, (c) any exchange, release or nonperfection of any other Mortgaged Property, or any release or amendment or waiver of or consent to or departure from any guaranty, for all or any of the Obligations, or (d) any other circumstance with might otherwise constitute a defense available to, or a discharge of, any Mortgagor in respect of the Obligations or in respect of this Mortgage.

**SECTION 4.4. Obligations Joint and Several.** Except as otherwise expressly stated or as may be made by the context necessary, all obligations and duties of the Mortgagors contained herein shall be joint and several obligations and duties of each of the Mortgagors.

**SECTION 4.5. Amendment, Modification, Waiver.** Neither this Mortgage nor any provision hereof may be waived, amended or modified except pursuant to the written agreement entered into between and among the Mortgagors, the Mortgagee and the Required Lenders; *provided, however*, that except as provided herein or in the Credit Agreement, no such agreement shall amend, modify, waive, or otherwise adversely affect the Lenders' rights and interests in any material amount of the Mortgaged Property without the prior written consent of each of the Lenders.

**SECTION 4.6. Termination.** If all of the Obligations shall be indefeasibly paid, performed and discharged in full, the Mortgagee shall forthwith cause satisfaction and discharge of this Mortgage to be entered upon the record at the expense of the Mortgagors and shall execute and deliver or cause to be executed and delivered such instruments of satisfaction and reassignment as may be appropriate, and this Mortgage shall become null and void, the Mortgaged Property shall revert to the Mortgagors, and all powers and appointments granted herein shall cease and determine. Otherwise, this Mortgage shall remain and continue in full force and effect.

**SECTION 4.7. Severability.** If any provision hereof is invalid, illegal or unenforceable in any jurisdiction, the other provisions hereof shall remain in full force and effect in such jurisdiction and the remaining provisions hereof shall be liberally construed in favor of the Mortgagee in order to effectuate the provisions hereof, and the invalidity, illegality or unenforceability of any provision hereof in any jurisdiction shall not affect the validity, legality or enforceability of any such provision in any other jurisdiction.

**SECTION 4.8. Survival.** All agreements, representations and warranties made herein shall survive the execution and delivery of this Mortgage.

**SECTION 4.9. Notices.** Notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed or sent by telecopy, graphic scanning or other telegraphic communications equipment of the sending party, as follows:

(a) if to a Mortgagor, to it c/o CNW Corporation, One North Western Center, 165 N. Canal Street, Chicago, Illinois 60606, Attention of Thomas A. Tingleff (Telecopy No. (312) 559-6527); and

(b) if to the Mortgagee, to it at 227 Park Avenue, New York, New York 10172, Attention of Michael Boches (Telecopy No. (212) 758-6914), with a copy to each Additional Mortgagee (unless the subject matter thereof is completely unrelated to the powers and duties of such Additional Mortgagees) at the address set forth in Exhibit E and from time to time provided by notice to each Mortgagor and each Mortgagee.

All notices and other communications given to any party hereto in accordance with the provisions of this Mortgage shall be deemed to have been given on the date of receipt if delivered by hand or overnight courier service or sent by telecopy, graphic scanning or other telegraphic communications equipment of the sender, or on the date five Business Days after dispatch by certified or registered mail if mailed, in each case delivered, sent or mailed (properly addressed) to such party as provided in this Section 4.8 or in accordance with the latest unrevoked direction from such party given in accordance with this Section 4.8.

**SECTION 4.10. No Waiver.** No failure on the part of the Mortgagee to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy by the Mortgagee preclude any other or further exercise thereof or the exercise of any other right, power or remedy. All remedies hereunder are cumulative and are not exclusive of any other remedies provided by law. Except as provided in the Credit Agreement, neither the Mortgagee, the Issuing Bank nor the Lenders or the Required Lenders shall be deemed to have waived any rights hereunder or under any other agreement or instrument unless such waiver shall be in writing and signed by such parties.

**SECTION 4.11. The Other Security Documents.** Each Mortgagor acknowledges that, in addition to this Mortgage, there are one or more other security documents (the "Other Security Documents" comprising one or more of the Loan Documents) which secure payment and performance of the Obligations. Each Mortgagor agrees that the lien of this Mortgage shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of the Mortgagee and, without limiting the generality of the foregoing, the lien hereof shall not be impaired by any acceptance by the Mortgagee of any security for or guarantors upon any of the Obligations, or by failure, neglect or omission on the part of the Mortgagee to realize upon or protect any of the security provided pursuant to the Other Security Documents or otherwise. The lien hereof shall not in any manner be impaired or affected by any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, changing, modification or disposition relating to the Mortgaged Property, the Obligations or of any other security provided pursuant to the Other Security Documents or otherwise or of any guarantee, and the Mortgagee may at its discretion foreclose, exercise any power of sale, or exercise any other remedy available to it under any or all of the Other Security Documents without first exercising or enforcing any of its rights and remedies hereunder. Such exercise of the Mortgagee's rights and remedies under any or all of the Other Security Documents shall not in any manner impair the lien of this Mortgage or any of the rights and remedies of the Mortgagee hereunder and any exercise of the rights or remedies of the Mortgagee hereunder shall not impair the lien of any of the Other Security Documents or any of the Mortgagee's rights and remedies thereunder. The Mortgagor specifically consents and agrees that the Mortgagee may exercise its rights and remedies hereunder and under the Other Security Documents separately or concurrently and in any order that it may deem appropriate.

**SECTION 4.12. Interest Permitted Under Law.** This Mortgage is limited so that in no contingency, whether by reason of demand for payment of or acceleration of the maturity of any of the Indebtedness or otherwise, shall the interest contracted for, charged or received by the Mortgagee for the benefit of the Lenders and the Issuing Bank, however characterized or computed, exceed the maximum amount permissible under applicable law. If, from any circumstance whatsoever, interest would otherwise be payable to the Mortgagee for the benefit of the Lenders and the Issuing Bank in excess of the maximum lawful amount, the interest so payable shall be reduced to the maximum amount permitted under applicable law; and if from any circumstance the Mortgagee shall ever receive for the benefit of the Lenders and the Issuing Bank anything of value deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any excessive interest shall be applied to the reduction of the principal balance of the Indebtedness and not to the payment of interest or, if such excessive interest exceeds the unpaid balance of principal of the Indebtedness, such excess shall be refunded to the Mortgagors. All interest paid or agreed to be paid to the Mortgagee shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full period until payment in full of the principal of the Indebtedness (including the period of any renewal or extension thereof) shall not exceed the maximum amount permitted by applicable law.

**SECTION 4.13. Indemnification.** Each Mortgagor covenants and agrees to protect, indemnify, save harmless and defend the Mortgagee, the Lenders and the Issuing Bank (each such person being called an "Indemnitee") from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, attorneys' fees and expenses) imposed upon or incurred by or asserted against any Indemnitee by reason of:

- (a) the ownership of any interest in this Mortgage, the Notes, the other Loan Documents, the Obligations or the Mortgaged Property;
- (b) any use, non-use or condition of the Mortgaged Property or any part thereof or of the adjoining sidewalks, curbs, vaults and vault space, if any, streets, alleys or ways, other than arising out of gross negligence or willful misconduct of the Mortgagee in possession thereof;
- (c) any failure on the part of any Mortgagor to perform or comply with any of the terms of this Mortgage or the other Loan Documents;



(d) the performance of any labor or services or the furnishing of any materials or other property in respect of the Mortgaged Property or any part thereof, other than arising out of gross negligence or willful misconduct of the Mortgagee in possession thereof;

(e) any negligence or tortious act on the part of any Mortgagor or any of their agents, contractors, lessees, licensees or invitees, or any other person whomsoever, other than arising out of gross negligence or willful misconduct of the Mortgagee in possession thereof;

(f) any work in connection with any alterations, changes, new construction or demolition of or additions to the Mortgaged Property, other than arising out of gross negligence or willful misconduct of the Mortgagee in possession thereof; or

(g) any litigation, arbitration, investigation or other proceeding initiated by any person with respect to the Loan Documents, the Mortgaged Property or any transaction contemplated by the Loan Documents, any amount, consideration or other benefit paid, received or deposited hereunder or thereunder or any other matter relating to the Obligations.

If any action or proceeding be commenced, except an action to foreclose this Mortgage or to collect the Indebtedness, to which action or proceeding an Indemnitee is made a party by reason of the execution of this Mortgage or any other Loan Document, or the performance of or compliance with any of the obligations or provisions hereof or thereof, other than arising out of the gross negligence or wilful misconduct of the Mortgagee, or in which it becomes necessary to defend or uphold the lien of this Mortgage, all sums paid by such Indemnitee for the expense of any litigation to prosecute or defend the rights and lien created hereby shall be paid by the Mortgagors to such Indemnitee as hereinafter provided. In case any action, suit or proceeding is brought against an Indemnitee by reason of any such occurrence, the Mortgagors, upon request of such Indemnitee, will, at the Mortgagors' expense, resist and defend such action, suit or proceeding or cause the same to be resisted or defended by counsel designated by the Mortgagors and to be reasonably approved by such Indemnitee, the Mortgagors will pay and save harmless against any and all liability with respect to any intangible personal property tax or similar imposition of the Federal government or any state, local, municipal or other government or any subdivision or authority thereof now or hereafter in effect, to the extent that the same may be payable by such Indemnitee in respect of this Mortgage, the Notes or the other Loan Documents. All amounts payable to an Indemnitee under this Section shall be deemed indebtedness secured by this Mortgage and any such amounts which are not paid within five days after written demand therefor by such Indemnitee shall bear interest at the rate as provided in Section 2.07 of the Credit Agreement from the date of such demand. The obligations of the Mortgagors under this Section shall be joint and several and shall survive any discharge or termination and payment in full of the Notes and all other Obligations secured hereby.

**SECTION 4.14. Missouri and Nebraska Trustees.** The Missouri Trustee set forth in Exhibit E is appointed hereunder. The Nebraska Trustee set forth in Exhibit E is appointed hereunder as the qualified trustee pursuant to Section 76-1003 R.R.S. Nebraska 1943, as amended, and shall exercise all powers and rights given to a trustee qualified under the Nebraska Trust Deeds Act. The Missouri and Nebraska Trustees shall be fully indemnified and held harmless by each Mortgagor from all claims, causes of action and liabilities of whatever kind asserted against them as a result of their respective appointments hereunder, and each Mortgagor agrees to pay their reasonable compensation and expenses. The Mortgagee may at any time, with or without cause, remove either the Missouri Trustee or the Nebraska Trustee and appoint a successor trustee thereof, which appointment shall be subject to the reasonable approval of the Mortgagors.

**SECTION 4.15. The Mortgagee; Additional or Separate Mortgagees.** If at any time or times it shall be necessary or prudent in the reasonable opinion of the Mortgagee in order to conform to any law of any state in which any Mortgagor shall at the time hold any material property subject to the lien and security interest of this Mortgage, the Mortgagee and the Mortgagors shall execute and deliver all instruments and agreements as are reasonably necessary or proper to constitute another bank or trust company or one or more other Persons approved by the Mortgagee and the Mortgagors, either to act hereunder as an additional Mortgagee with respect to all or any of the Mortgaged Property (any such bank, trust company or person so appointed, including the Missouri and Nebraska Trustees, being referred to herein as an "Additional

Mortgagee") jointly with the Mortgagee, or to act hereunder as separate Mortgagee with respect to any of such property. In the event any Mortgagor shall not have joined in the execution of such instruments and agreements within ten days after the receipt of a request from the Mortgagee so to do, or if a Default shall have occurred and be continuing, the Mortgagee may act under the foregoing provision of this Section without the concurrence of the Mortgagors; and each Mortgagor hereby fully empowers the Mortgagee so to act and appoints the Mortgagee its agent and attorney to act for it under the foregoing provision of this Section in either of such contingencies.

Every Additional Mortgagee hereunder shall, to the extent permitted by law, be appointed and act, and the Mortgagee shall act, subject to the following provisions and conditions, namely:

(a) All rights, powers, duties and obligations conferred or imposed upon the Mortgagee shall be conferred and imposed upon and exercised or performed by Chemical Bank, or its successor, as Mortgagee, except to the extent that (i) under the law of any jurisdiction in which any particular act or acts are to be performed by Chemical Bank, or its successor, as Mortgagee, Chemical Bank shall be incompetent or unqualified to perform such act or acts and a competent and qualified Additional Mortgagee shall have been appointed or (ii) Chemical Bank shall have expressly granted or delegated to an Additional Mortgagee certain rights, powers, duties and obligations; in which event (in either case) such rights, powers, duties and obligations shall be exercised and performed by such Additional Mortgagee.

(b) No Mortgagee hereunder shall be personally liable by reason of any act or omission of any other Mortgagee hereunder.

(c) Chemical Bank or its successor, as Mortgagee, at any time by an instrument in writing may remove any Additional Mortgagee and, at its discretion, appoint a successor to such Additional Mortgagee.

Subject to requirements of context and to the foregoing, the term "Mortgagee" appearing throughout this Mortgage and Security Agreement shall be deemed to include each Additional Mortgagee.

**SECTION 4.16. Receipt of Copy.** Each Mortgagor and the Mortgagee acknowledges receipt of a true executed copy of this Mortgage and each document, instrument and agreement executed and delivered herewith.

**SECTION 4.17. Headings; Meanings.** Article and Section headings in this Mortgage are included herein for convenience of reference only and shall not constitute a part of this Mortgage for any other purpose or be given any substantive effect. Whenever used herein, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.


**SECTION 4.18. Applicable Law.** This Mortgage has been executed and delivered in New York, New York, and shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of New York, except to the extent that the laws of other jurisdictions shall be mandatorily applicable hereto.

**SECTION 4.19. Successors and Assigns.** The terms and provisions of this Mortgage shall inure to the benefit of the Mortgagee, its successors and assigns and all other persons from time to time entitled to the benefit of any Obligation, and shall be binding upon the Mortgagors and their respective successors and assigns.


**SECTION 4.20. Counterparts.** This Mortgage and any amendments, waivers, consents or supplements may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

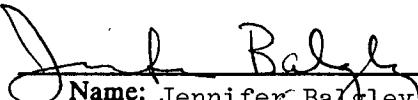
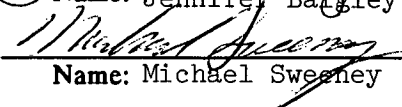
IN WITNESS WHEREOF, each of the Mortgagors has caused this Mortgage to be signed in its corporate name by its President or Vice President, and its corporate seal to be hereunto affixed and the same to be attested by the signature of its Secretary or an Assistant Secretary, all as of the date herein set forth.

CHICAGO AND NORTH WESTERN  
TRANSPORTATION COMPANY,

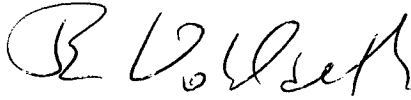
by   
Title: Vice President  
John Voldseth




  
Title: Assistant Secretary  
Lisa M. Fanelli  
In the presence of:

  
Name: Jennifer Baigley  
  
Name: Michael Sweeney


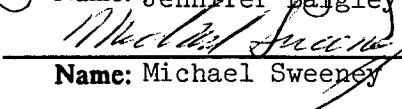
MIDWESTERN RAILROAD PROPERTIES  
INCORPORATED,

by   
Title: Vice President  
John Voldseth



  
Title: Assistant Secretary  
Lisa M. Fanelli

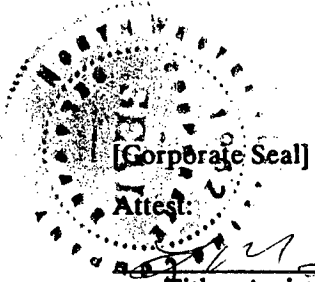
In the presence of:

  
Name: Jennifer Baigley  
  
Name: Michael Sweeney

NORTH WESTERN LEASING COMPANY,

by John Voldseth

Title: Vice President  
John Voldseth



[Corporate Seal]

Attest:

Lisa M. Fanelli

Title: Assistant Secretary  
Lisa M. Fanelli

In the presence of:

Jennifer Baigley  
Name: Jennifer Baigley

Michael Sweeney  
Name: Michael Sweeney

WISCONSIN TOWN LOT COMPANY,

by John Voldseth

Title: Vice President  
John Voldseth



[Corporate Seal]

Attest:

Lisa M. Fanelli

Title: Assistant Secretary  
Lisa M. Fanelli

In the presence of:

Jennifer Baigley  
Name: Jennifer Baigley

Michael Sweeney  
Name: Michael Sweeney

STATE OF NEW YORK, )  
 )  
COUNTY OF NEW YORK, )

I, the undersigned, a notary public in and for said county and said state, hereby certify that John Voldseth, who resides at 426 N. Prospect, Park Ridge, Illinois 60068, and Lisa M. Fanelli, who resides at 1909 Clydesdale, Wheaton, Illinois 60187, respectively, whose names as Vice President-Finance and Assistant Secretary of CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation on the <sup>27<sup>th</sup></sup> day of Oct, 1989, to be effective as of Oct 27, 1989.

Given, under my hand and seal on this the 27<sup>th</sup> day of Oct, 1989.



Adele R. Shaw  
**Notary Public**  
ADELE R. SHAW  
Notary Public, State of New York  
No. 31-4800192  
Qualified in New York County  
Commission Expires October 31, 1989

STATE OF NEW YORK, )  
 )  
COUNTY OF NEW YORK, )

I, the undersigned, a notary public in and for said county and said state, hereby certify that John Voldseth, who resides at 426 N. Prospect, Park Ridge, Illinois 60068, and Lisa M. Fanelli, who resides at 1909 Clydesdale, Wheaton, Illinois 60187, respectively, whose names as Vice President-Finance and Assistant Secretary of MIDWESTERN RAILROAD PROPERTIES, INCORPORATED, a Delaware corporation, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation on the 27<sup>th</sup> day of Oct, 1989, to be effective as of Oct. 27, 1989.

Given, under my hand and seal on this the 27th day of Oct., 1989.



Adele H. Shaw  
Notary Public

ADELE H. SHAW  
Notary Public, State of New York  
No. 31-4800192  
Qualified in New York County  
Commission Expires October 31, 1989

STATE OF NEW YORK, )  
 )  
COUNTY OF NEW YORK, )

I, the undersigned, a notary public in and for said county and said state, hereby certify that John Voldseth, who resides at 426 N. Prospect, Park Ridge, Illinois 60068, and Lisa M. Fanelli, who resides at 1909 Clydesdale, Wheaton, Illinois 60187, respectively, whose names as Vice President-Finance and Assistant Secretary of NORTH WESTERN LEASING COMPANY, a Delaware corporation, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation on the 27<sup>th</sup> day of Oct, 1989, to be effective as of Oct. 27, 1989.

Given, under my hand and seal on this the 27<sup>th</sup> day of Oct., 1989.



Adele R. Shaw  
**Notary Public**  
ADELE R. SHAW  
Notary Public, State of New York  
No. 31-4800192  
Qualified in New York County  
Commission Expires October 31, 1989

STATE OF NEW YORK, )  
 )  
COUNTY OF NEW YORK, )

I, the undersigned, a notary public in and for said county and said state, hereby certify that John Voldseth, who resides at 426 N. Prospect, Park Ridge, Illinois 60068, and Lisa M. Fanelli, who resides at 1909 Clydesdale, Wheaton, Illinois 60187, respectively, whose names as Vice President-Finance and Assistant Secretary of WISCONSIN TOWN LOT COMPANY, a Wisconsin corporation, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation on the 27 day of October, 1989, to be effective as of 04 27, 1989.

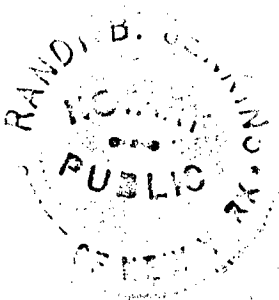
Given, under my hand and seal on this the 27th day of October, 1989.

Randi B. Jenkins  
Notary Public

RANDI B. JENKINS  
NOTARY PUBLIC, State of New York  
No. 31-4810325  
Qualified in New York County  
Commission Expires ~~March 30, 1988~~

December 31, 1990

[Notarial Seal]





**EXHIBIT A**

**Boone Office  
Boone County, Iowa**

**CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY**

That part of Block A and vacated Ninth Street in the Original Town of Boone, located in the South Half of the Southeast Quarter of Section 21, Township 84 North, Range 26 West of the Fifth Principal Meridian, bounded and described as follows: Beginning at the point of intersection of the North line of 9th Street with the East line of Story Street; thence North along said East line of Story Street a distance of 112.0 feet; thence East parallel with the North line of 9th Street a distance of 701.25 feet; thence South parallel with the East line of Story Street, and the Southerly extension thereof, a distance of 162.0 feet; thence West parallel with the North line of the vacated portion of 9th Street a distance of 193.0 feet; thence North parallel with the Southerly extension of the East line of Story Street a distance of 41.5 feet; thence West parallel with the North line of vacated 9th Street, and the Westerly extension thereof, a distance of 350.0 feet; thence North parallel with the Southerly extension of the East line of Story Street a distance of 8.5 feet to the North line of 9th Street; thence West along said North line of 9th Street a distance of 158.25 feet to the point of beginning, Boone County, Iowa.

**EXHIBIT A**  
**DES MOINES OFFICE & FUELING**  
**POLK COUNTY, IOWA**

**MIDWESTERN RAILROAD PROPERTIES, INCORPORATED**

That part of the Southwest Quarter of Section 1, Township 78 North, Range 24 West of the Fifth Principal Meridian, bounded and described as follows: Commencing at the Northeast corner of the Southwest Quarter of said Section 1; thence Southerly along the East line of said Southwest Quarter of Section 1 a distance of 301.9 feet to a point distant 50 feet Northeasterly, measured at right angles, from the most Northerly (West Bound) main track of Midwestern Railroad Properties, Incorporated, said point being the point of beginning of the parcel of land herein described; thence continuing Southerly along said East line of the Southwest Quarter of Section 1 a distance of 965 feet, more or less, to the Northeast corner of Lot 122 in Morrison's Addition to the City of Des Moines; thence Westerly along the North line of said Lot 122 a distance of 130.5 feet to the Northwest corner of said Lot 122; thence Northerly at right angles to the last described course a distance of 20 feet; thence Westerly at right angles to the last described course a distance of 14 feet; thence Southerly at right angles to the last described course a distance of 20 feet to the Northeast corner of Lot 135 in said Morrison's Addition to the City of Des Moines; thence Westerly along the North line of said Lot 135 a distance of 130.5 feet to the Northwest corner of said Lot 135; thence Northerly along the East line of S.E. 25th Court a distance of 20 feet; thence Westerly at right angles to the last described course a distance of 50 feet to a point on the West line of said S.E. 25th Court; thence Southerly along said West line of S.E. 25th Court a distance of 60 feet, more or less, to the Northeast corner of Lot 8 in Lakeside Addition to the City of Des Moines; thence Westerly along the North line of said Lot 8, and the Westerly extension thereof, a distance of 264 feet, more or less, to a point on the East line of S.E. 25th Street; thence Northerly along said East line of S.E. 25th Street a distance of 20 feet; thence Westerly at right angles to the last described course a distance of 50 feet to a point on the West line of said S.E. 25th Street; thence Southerly along said West line of S.E. 25th Street a distance of 20 feet to the Northeast corner of Lot 69 in Lakeside Addition to the City of Des Moines; thence Westerly along the North line of said Lot 69 a distance of 125 feet to the Northwest corner of said Lot 69; thence Northerly at right angles to the last described course a distance of 20 feet; thence Westerly at right angles to the last described course a distance of 14 feet; thence Southerly at right angles to the last described course a distance of 20 feet to the Northeast corner of Lot 111 in Lakeside Addition to the City of Des Moines; thence Westerly along the North line of said Lot 111 a distance of 125 feet to the Northwest corner of said Lot 111; thence Southerly along the West line of Lot 111 a distance of 25 feet; thence Westerly at right angles to the last described course a distance of 50 feet to the Northeast corner of Lot 127 in Lakeside Addition to the City of Des Moines; thence Westerly along the North line of said Lot 127, and the Westerly extension thereof, a distance of 225.9 feet; thence Southerly at right angles to the last described course a distance of 70 feet; thence Westerly at right angles to the last described course a distance of 175 feet; thence Southerly at right angles to the last described course a distance of 190 feet, more or less, to a point on the North line of East Market Street; thence Westerly along said North line of East Market Street a distance of 260 feet, more or less, to a point distant 25 feet Southwesterly, measured at right angles, from the center line of Midwestern Railroad Properties, Incorporated storehouse lead extension track which serves Armstrong Tire and Rubber Company; thence Northwesterly parallel with said lead extension track a distance of 1,304 feet, more or less, to a point on the West line of said Southwest Quarter of Section 1; thence Northerly along said West line of Section 1 a distance of 537 feet, more or less, to a point distant 55 feet Northerly, measured radially, from said most Northerly (West Bound) main track center line; thence Easterly parallel with said main track center line a distance of 250 feet, more or less, to a point distant 25 feet Northeasterly, measured at right angles, from the center line of Midwestern Railroad Properties, Incorporated most Southerly spur track lying Northerly of said West Bound main track; thence Southeasterly along said spur track center line a distance of 15 feet to a point distant 50 feet Northerly, measured radially, from said West Bound main track center line; thence Easterly parallel with said West

Bound main track center line a distance of 2,367 feet, more or less, to the point of beginning, Polk County, Iowa.

PIN Nos. 05-0-04429-001-000; 05-0-04456-003-000;  
05-0-04431-000-000; 05-0-04429-003-000;  
05-0-03073-000-000; 05-0-03071-000-000;  
05-0-02445-001-000; 05-0-02541-001-000

**EXHIBIT A**

**Railway Transfer Yard  
Hennepin County, Minnesota**

**CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY**

**PARCEL A:**

That part of Government Lot 12 in Section 23, Township 29 North, Range 24 West of the Fourth Principal Meridian, Block 117 in the original Town (now City) of Minneapolis, and part of Lot 6, Auditor's Subdivision No. 41, all being bounded and described as follows: Beginning at a point on the East Line of said Government Lot 12, distant 235.00 feet North of the Southeast corner thereof; thence South along the East line of said Government Lot 12 a distance of 235.00 feet to the Southeast corner thereof; thence West along the South line of said Government Lot 12, being also the South line of said Section 23, a distance of 1323.05 feet to the Southwest corner of said Government Lot 12; thence continuing West along the South line of said Section 23 a distance of 156.56 feet, to a point on the Southeast line of Lot 2 in said Block 117; thence Northeasterly along said Southeast line of Lot 2, and the Northeasterly extension thereof, a distance of 160.60 feet, more or less to a point on the Southeast line of Lot 9 in said Block 117, distant 52 feet Northeast of the Southeast corner thereof; thence Northwesterly parallel with the Southwest line of said Block 117 a distance of 132 feet, more or less, to a point on the Northwest line of said Block 117, said point being also a point on the Southeast line of 10th Avenue South; thence Northeasterly along said Southeast line of 10th Avenue South a distance of 182 feet, more or less, to a point on the South right of way line of the former Minneapolis Western Railway Transfer yard; thence Southeasterly along a straight line a distance of 104 feet, more or less, to a point on the West line of said Government Lot 12, distant 315.50 feet North of the Southwest corner thereof; thence Southeasterly along a straight line a distance of 53.80 feet to the southerly line of said Lot 6 in Auditor's Subdivision No. 41; thence Southeasterly along a straight line a distance of 563.55 feet, more or less, to a point distant 302.87 feet Northeasterly of a point on the South line of said Government Lot 12, distant 770.15 feet West of the Southeast corner thereof, and lying along a line forming an angle of 78 degrees 09 minutes, measured from East to North from the South line of said Government Lot 12; thence Southeasterly along a straight line a distance of 710.44 feet to the point of beginning, Hennepin County, Minnesota.

**PARCEL B:**

That part of the Northeast Quarter of Section 26, Township 29 North, Range 24 West of the Fourth Principal Meridian, those parts of Blocks 116, 117, 132 and 133, Town of Minneapolis, according to the recorded plat thereof and those parts of 11th Avenue South, 12th Avenue South, 13th Avenue South and 1st Street South, now vacated, described as follows: Beginning at the Northeast corner of said Northeast Quarter; thence on an assumed bearing of South 89 degrees 53 minutes 57 seconds West, along the North line of said Northeast Quarter, a distance of 1479.61 feet, to the intersection with the Southeasterly line of Lot 2, Block 117, in said plat; thence South 30 degrees 43 minutes 04 seconds West, along said Southeasterly line, a distance of 27.00 feet, to a point distant 29.71 feet Northeasterly from the Southeast corner of said Lot 2; thence South 64 degrees 39 minutes 30 seconds West a distance of 35.82 feet, to a point on the Southwesterly line of said Lot 2 distant 20.00 feet Northwesterly from said Southeast corner; thence South 59 degrees 17 minutes 45 seconds East, along the South line of said Block 117, a distance of 126.43 feet, to the most Westerly corner of South River Development Addition, according to the recorded plat thereof; thence Northeasterly and Easterly, along the Northerly line of said South River Development Addition, a distance of 190.85 feet along a non-tangential curve concave to the Southeast having a radius of 394.36 feet and a central angle of 27 degrees 43 minutes 40 seconds, the chord of said curve is 188.99 feet in length and bears North 72 degrees 13 minutes 40 seconds East, to a point of compound curvature; thence continuing Easterly along said Northerly line a distance of 99.00 feet along a tangential curve concave to the South having a radius of 1479.67 feet and a central angle of 3 degrees 50 minutes 00 seconds to a point of curvature; thence North 89 degrees 55 minutes 30 seconds East, tangent to the last described curve, along said North line, and

its Easterly extension, a distance of 891.10 feet; thence Easterly a distance of 248.39 feet along a tangential curve concave to the South having a radius of 1445.17 feet and a central angle of 9 degrees 50 minutes 52 seconds, to the East line of said Northeast Quarter; thence North 0 degrees 06 minutes 23 seconds West, along said East line a distance of 64.38 feet to the point of beginning, Hennepin County, Minnesota.

Parcel A - PIN Nos. 23-029-24-43-0001, 23-029-24-43-0002 and 23-029-24-44-0005

Parcel B - PIN Nos. 26-029-24-11-0017, 26-029-24-11-0013 and 26-029-24-12-0033

Parcel II: Lots 5, 6, 7 and 8, KANE PLACE and vacated Kane Street, according to the recorded plat thereof, Dakota County, Minnesota.

Parcel III: That part of the west 540.00 feet of the Northeast Quarter of Section 28, Township 115 North, Range 19 West of the 5th Principal Meridian which lies southerly of a line 160.00 feet southerly of, measured at a right angle to and parallel with the center line of the Midwestern Railroad Properties, Incorporated right-of-way, Dakota County, Minnesota.

Parcel IV: That part of the Northwest Quarter of Section 28, Township 115 North, Range 19 West of the 5th Principal Meridian, in Dakota County, Minnesota, bounded as follows:

On the east by the west line of the east 1445.00 feet of said Northeast Quarter.

On the south by the north line of the south 1000.00 feet of said Northeast Quarter.

On the west by the east line of the west 540.00 feet of said Northeast Quarter.

On the north by a line 160.00 feet southerly of, measured at a right angle to and parallel with the center line of the Midwestern Railroad Properties, Incorporated (formerly known as the Chicago, Rock Island and Pacific Railroad) right-of-way.

Parcel V: That part of the south 1000.00 feet of the Northeast Quarter of Section 28, Township 115 North, Range 19 West of the 5th Principal Meridian which lies east of the west 540.00 feet of said Northeast Quarter and lying west of the east 1445.00 feet of said Northeast Quarter, Dakota County, Minnesota.

Parcel VI: That part of the east 1445.00 feet of the Northeast Quarter of Section 28, Township 115 North, Range 19 West of the 5th Principal Meridian which lies southerly of a line 160.00 feet southerly of, measured at a right angle to and parallel with the centerline of the Midwestern Railroad Properties, Incorporated (formerly known as the Chicago, Rock Island and Pacific Railroad) right-of-way, Dakota County, Minnesota.

Parcel VII: That part of the Southeast Quarter of Section 21, Township 115 North, Range 19 West of the 5th Principal Meridian which lies southerly of the southerly right-of-way of the Midwestern Railroad Properties, Incorporated (formerly known as the Chicago, Rock Island and Pacific Railroad) right-of-way, Dakota County, Minnesota.

Property Tax Identification Nos. 34-41200-050-00, 060-00, 070-00, 080-00; 34-02810-010-32, -07-15; and 34-02110-010-85.

**EXHIBIT A**

**Leasehold Interest  
Escanaba Ore Dock  
Delta County, Michigan**

**CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY**

A parcel located in Government Lots 3 and 4 of Section 18; Government Lots 1, 2, 3 and 4 of Section 19; and Government Lot I of Section 30, all in Township 39 North, Range 22 West, Delta County, Michigan described as follows: Commencing at the South Quarter corner of Section 19, Township 39 North, Range 22 West; thence North 89° 03' East a distance of 1551.00 feet; thence South 42° 32' 30" East a distance of 401.12 feet to point of beginning of parcel herein described; thence South 89° 03' West a distance of 1314.32 feet; thence North 0° 33' West a distance of 4399.22 feet; thence South 89° 23' West a distance of 158.90 feet; thence North 7° 29' East a distance of 555.60 feet; thence North 11° 00' West a distance of 2737.63 feet; thence North 84° 18' East a distance of 150.64 feet; thence South 11° 00' East a distance of 1882.93 feet; thence North 84° 18' East a distance of 1090.00 feet; thence South 65° 08' East a distance of 415.05 feet; thence South 85° 05' West a distance of 717.50 feet; thence South 12° 15' West a distance of 100.00 feet; thence South 5° 25' East a distance of 400.00 feet; thence South 88° 08' East a distance of 122.00 feet; thence South 7° 38' East a distance of 152.00 feet; thence South 17° 02' West a distance of 570.00 feet; thence South 5° 48' East a distance of 500.00 feet; thence South 56° 08' East a distance of 100.00 feet; thence South 10° 32' West, a distance of 560.00 feet; thence South 2° 03' West a distance of 600.00 feet; thence South 6° 07' East a distance of 400.00 feet; thence South 0° 07' East a distance of 1250.00 feet; thence South 18° 37' East a distance of 590.00 feet; thence South 38° 37' East a distance of 700.00 feet to the point of beginning, Delta County, Michigan.

PIN Nos. 21-29-30-200-010, 21-29-19-400-009, 21-29-19-200-001 and 21-29-19-400-008

**EXHIBIT A**

**Rosemount Farm  
Dakota County, Minnesota**

**WISCONSIN TOWN LOT COMPANY**

**PHASE I - WEST PARCEL**

**Parcel I:** That part of the Northwest Quarter of Section 28, Township 115 North, Range 19 West of the 5th Principal Meridian, lying southerly of the southerly right-of-way line of the Midwestern Railroad Properties, Incorporated (formerly known as the Chicago, Rock Island and Pacific Railroad), Dakota County, Minnesota, EXCEPT the four following described parcels:

**EXCEPTION NO. 1**

That part of the Northwest Quarter of said Section 28 described as follows:

Commencing at the southwest corner of said Northwest Quarter; thence on an assumed bearing of North 0 degrees 20 minutes 22 seconds East, along the west line of said Northwest Quarter, a distance of 560.00 feet, to the point of beginning of the land to be described; thence South 89 degrees 39 minutes 38 seconds East a distance of 715.13 feet; thence North 0 degrees 20 minutes 22 seconds East, parallel with said West line, a distance of 658.59 feet, to the southerly right-of-way line of said railroad; thence South 66 degrees 50 minutes 07 seconds West, along said southerly right-of-way line, a distance of 779.83 feet, to said west line; thence South 0 degrees 20 minutes 22 seconds West, along said west line, a distance of 347.58 feet, to the point of beginning.

**EXCEPTION NO. 2**

That part of the Northwest Quarter of said Section 28 platted as KANE PLACE, according to the recorded plat thereof.

**EXCEPTION NO. 3**

The east 500.00 feet of the west 1075.00 feet of the south 200.00 feet of the Northwest Quarter of said Section 28.

**EXCEPTION NO. 4**

That part of the Northwest Quarter of said Section 28 lying easterly and northerly of a line described as follows:

Commencing at the southwest corner of said Northwest Quarter; thence on an assumed bearing of North 0 degrees 20 minutes 22 seconds East, along the west line of said Northwest Quarter, a distance of 962.10 feet to the centerline of the Midwestern Railroad Properties, Incorporated right-of-way; thence North 66 degrees 50 minutes 07 seconds East, along said centerline, a distance of 2306.41 feet, to the beginning of the line to be described; thence South 23 degrees 09 minutes 53 seconds East a distance of 160.00 feet; thence North 66 degrees 50 minutes 07 seconds East a distance of about 490 feet, to the east line of said Northwest Quarter and said line there terminating.

**EXHIBIT A**

**Ballast Quarry  
Sauk County, Wisconsin**

**CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY**

All that part of the Northwest Quarter of the Southwest Quarter of Section 28, Township 12 North, Range 5 East bounded and described as follows, to wit: Beginning at the Northeast corner of said Northwest Quarter of the Southwest Quarter; thence South along the East line of said Northwest Quarter of the Southwest Quarter to the Southeast corner thereof; thence West along the South line of said Northwest Quarter of the Southwest Quarter, 750 feet; thence North 9 degrees West, 167 feet; thence West 157 feet to the Easterly line of the property of the Wisconsin Granite Company; thence North 26 degrees East, 98 feet; thence North 62 degrees East, 99 feet; thence North 19 degrees East, 132 feet; thence North 21 degrees East, 180 feet; thence East 425.6 feet; thence North 798 feet to the North line of said Northwest Quarter of the Southwest Quarter; thence East along the North line of said Northwest Quarter of the Southwest Quarter, 250 feet, more or less, to the point of beginning, Sauk County, Wisconsin.

ALSO: Starting at a point which is 750 feet West of the Northeast corner of the Southwest Quarter of the Southwest Quarter of Section 28, Township 12 North, Range 5 East, thence running West along the 1/8 line 283 feet to a point which is described as being 18 rods East of the 1/8 corner on the West side of Section 28 in the deed in Vol. 64 page 124, Sauk County Records, thence North 40 degrees East 99 feet, thence North 26 degrees East 100 feet, thence East 157 feet, thence South 9 degrees East 167 feet to the beginning, Sauk County, Wisconsin.

ALSO: The Northeast Quarter of Southwest Quarter of Section 28, Township 12 North of Range 5 East, Sauk County, Wisconsin.

ALSO: A strip of land in the Northeast corner of the Southeast Quarter of Southwest Quarter of Section 28, Township 12 North of Range 5 East, being 5 rods North and South and 30 rods East and West, Sauk County, Wisconsin.

ALSO: All that part of the Northwest Quarter of the Southwest Quarter of Section 28, Township 12 North, Range 5 East, described as follows to wit: Beginning at a point in the South line of said Northwest Quarter of the Southwest Quarter of Section 28 distant 297 feet East of the Southwest Corner thereof; thence North 40 degrees East 99 feet; thence North 26 degrees East 198 feet; thence North 62 degrees East 99 feet; thence North 19 degrees East 132 feet; thence North 21 degrees East 180 feet; thence East 425.6 feet; thence North 798 feet to a point in the North line of the aforesaid Northwest Quarter of the Southwest Quarter of Section 28; thence South 86 degrees 30 minutes West along said North line of the Northwest Quarter of the Southwest Quarter of Section 28, a distance of 500 feet, more or less, to the center line of the Baraboo River, being the present Easterly right of way line of the Chicago and North Western Railway Company; thence Southerly and Southwesterly along said present Easterly right of way line of said Railway Company to its point of intersection with the South line of the aforesaid Northwest Quarter of the Southwest Quarter of Section 28; thence Easterly along said South line of the Northwest Quarter of the Southwest Quarter of Section 28 a distance of 140 feet, more or less, to the point of beginning, Sauk County, Wisconsin.

ALSO: All of the Southeast Quarter of the Southwest Quarter of Section 28, Township 12 North, Range 5 East of the Fourth Principal Meridian, excepting therefrom a strip of land in the Northeast corner thereof being 5 rods North and South and 30 rods East and West and also excepting therefrom a parcel of land in the Southeast corner thereof being 20 rods North and South and 20 rods East and West, Sauk County, Wisconsin.

EXCEPTING: All that part of the East 100 feet of the Southeast Quarter of the Southwest Quarter of Section 28, Township 12 North, Range 5 East in Sauk County, Wisconsin, that lies between two lines drawn at right angles to the East line of said Quarter-Quarter Section, which are respectively distant 700 feet and



**775 feet Northerly of the South Quarter corner of said Section 28, as measured along the North-South center line of said Section.**

**PIN No. 010-1025-0000, 010-1026-0000, 176-0096, 176-0101 and 176-0102**

**EXHIBIT A**

**KKK Elevator  
Milwaukee County, Wisconsin**

**CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY**

That part of the Northeast Quarter of the Southwest Quarter of Section 24, Township 6 North, Range 22 East of the Fourth Principal Meridian and Lots 1 and 6 of the Partition of that part of the Northwest Quarter of said Section 4, which lies West of the Quarter Section line, as made by the Circuit Court of Milwaukee County, in 1859, in the suit of Richard P. Marvin v. John W. Stewart, et al., bounded and described as follows: Beginning at the point of intersection of the North-South Quarter line of said Section 4 with a line parallel with and distant 70 feet Northeasterly, measured at right angles, from the center line of the most Southwesterly (Northbound) main track of the Chicago and North Western Railway Company (now the Chicago and North Western Transportation Company), as said main track was originally located over and across said Section 4, said point being also 2,293.28 feet North of the South Quarter corner of said Section 4; thence Southwesterly along a line drawn at right angles to said original main track center line, a distance of 30 feet, more or less, to a point distant 8.5 feet Southwesterly, measured at right angles, from the center line of Chicago and North Western Transportation Company Spur Track I.C.C. No. 30, as said Spur Track is now located; thence Northwesterly parallel with the center line of said Spur Track I.C.C. No. 30 to a point on the Southeasterly line of the Kinnickinnic River, as established by an Ordinance of the Mayor and Common Council of the City of Milwaukee, passed June 8, 1968 and approved June 13, 1968; thence Northeasterly along said established Southeasterly line of the Kinnickinnic River to a point distant 425 feet Northeasterly, measured at right angles, from said original main track center line, said point being hereinafter referred to as Point "A"; thence continuing Northeasterly along said established Southeasterly line of the Kinnickinnic River a distance of 120 feet; thence Southeasterly along a straight line a distance of 327.04 feet to a point distant 425 feet Northeasterly, measured at right angles, from said original main track center line, said point being also 250.00 feet Southeasterly from said Point "A"; thence Southeasterly parallel with said original main track center line a distance of 667.17 feet; thence Southeasterly along a straight line a distance of 745.2 feet to a point distant 321.69 feet Northeasterly, measured at right angles, from said original main track center line; thence Southeasterly along a straight line a distance of 631.22 feet to the point of beginning, Milwaukee County, Wisconsin.

PIN No. 463-9996-200-5

**EXHIBIT A**

**Ballast Quarry  
Sauk County, Wisconsin**

**WISCONSIN TOWN LOT COMPANY**

**The Southeast Quarter of the Northwest Quarter of Section 28, Township 12 North of Range 5 East, reserving to grantors, their heirs, administrators, and assigns, an easement for roadway purposes over the North 50 feet and East 100 feet of the North 250 feet, Town of Excelsior, Sauk County, Wisconsin.**

**PIN No. 010-1024-0000**

Other Encumbrances

1. Rights of others to use the streets and alleys abutting and crossing through the Mortgaged Property.
2. Rights of public, quasi-public and private utilities through the Mortgaged Property.
3. Leases, licenses, easements, occupancy agreements, trackage agreements and other similar rights which do not in the aggregate materially interfere with or impair the value of, or the conduct of railroad operations by the Mortgagors over, such Mortgaged Property.
4. Laws, ordinances, rules and regulations affecting the Mortgaged Property.
5. Rights reserved to or vested in any governmental authority with respect to the Mortgaged Property.
6. Defects and irregularities of title or interest which do not in the aggregate materially interfere with or impair the value of, or the conduct of railroad operations by the Mortgagors over, such Mortgaged Property.
7. Obligations or duties to any governmental authority with respect to any franchise, grant, license, consent or permit.
8. State of facts as of the date hereof which would be disclosed by an accurate survey of the Mortgaged Property which do not in the aggregate materially interfere with the conduct of railroad operations by the Mortgagors over such Mortgaged Property.
9. Covenants, conditions, limitations, restrictions, exceptions, easements and rights of way, whether or not of record, and claims with respect to the Mortgaged Property as of the date hereof which do not in the aggregate materially interfere with the conduct of railroad operations by the Mortgagors over such Mortgaged Property.
10. Liens in respect of judgments or awards with respect to which any Mortgagor shall in good faith be prosecuting an appeal or proceeding for review and with respect to which such Mortgagor shall have secured a stay of execution pending such appeal or proceeding for review, provided such Mortgagor shall have set aside on its books adequate reserves as required by GAAP with respect to any such judgments or awards.

States and Counties in which  
Mortgaged Property is Located

*Illinois*

Boone  
Bureau  
Cook  
DeKalb  
DuPage  
Fulton  
Kane  
Lake  
LaSalle  
Lee  
Macoupin  
Madison  
Marshall  
Mason  
McHenry  
Menard  
Montgomery  
Ogle  
Peoria  
St. Clair  
Sangamon  
Stark  
Stephenson  
Tazewell  
Whiteside  
Winnebago

*Iowa*

Audubon  
Benton  
Black Hawk  
Boone  
Bremer  
Buchanan  
Buena Vista  
Butler  
Calhoun  
Carroll  
Cedar  
Cerro Gordo  
Chickasaw  
Clay  
Clinton  
Crawford  
Dallas  
Delaware

Dickinson  
Dubuque  
Emmet  
Fayette  
Floyd  
Franklin  
Greene  
Grundy  
Guthrie  
Hamilton  
Hancock  
Hardin  
Harrison  
Henry  
Howard  
Humboldt  
Ida  
Jackson  
Jasper  
Jefferson  
Jones  
Keokuk  
Kossuth  
Linn  
Louisa  
Lucas  
Lyon  
Madison  
Mahaska  
Marion  
Marshall  
Mitchell  
Monona  
Monroe  
O'Brien  
Osceola  
Palo Alto  
Plymouth  
Pocahontas  
Polk  
Pottawattamie  
Poweshiek  
Ringgold  
Sac  
Shelby  
Sioux  
Story

Tama  
Taylor  
Union  
Wapello  
Warren  
Washington  
Wayne  
Webster  
Winnebago  
Woodbury  
Worth  
Wright

*Michigan*

Alger  
Delta  
Dickinson  
Gogebic  
Iron  
Marquette  
Menominee  
Ontonagon

*Minnesota*

Blue Earth  
Brown  
Carver  
Cottonwood  
Dakota  
Dodge  
Faribault  
Freeborn  
Goodhue  
Hennepin  
Jackson  
LacQuiParle  
LeSueur  
Lincoln  
Lyon  
Martin  
Nobles  
Olmsted  
Ramsey  
Redwood  
Renville  
Rice  
Rock  
St. Louis

Scott  
Steele  
Wabasha  
Waseca  
Washington  
Watonwan  
Winona  
Yellow Medicine

*Missouri*

Andrew  
Buchanan  
Caldwell  
Clay  
Davies  
Grundy  
Jackson  
Livingston  
Mercer  
Nodaway  
Platte  
Ray  
Worth

*Nebraska*

Antelope  
Boone  
Boyd  
Brown  
Burt  
Butler  
Cedar  
Cherry  
Clay  
Colfax  
Cuming  
Dakota  
Dawes  
Dixon  
Dodge  
Douglas  
Fillmore  
Hamilton  
Holt  
Knox  
Lancaster  
Madison  
Nuckolls

Pierce  
Platte  
Rock  
Saunders  
Scotts-Bluff  
Seward  
Sheridan  
Sioux  
Stanton  
Thayer  
Thurston  
Washington  
Wayne  
York  
*South Dakota*  
Beadle  
Brookings  
Brown  
Butte  
Clark  
Clay  
Codington  
Custer  
Davison  
Day  
Deuel  
Fall River  
Faulk  
Grant  
Gregory  
Haakon  
Hamlin  
Hand  
Hanson  
Hughes  
Hyde  
Jackson  
Jones  
Kingsbury  
Lawrence  
Lincoln  
McCook  
McPherson  
Meade  
Mellette  
Miner  
Minnehaha  
Pennington  
Potter  
Spink  
Stanley  
Sully  
Tripp

Turner  
Union  
Walworth  
Yankton  
*Wisconsin*  
Adams  
Ashland  
Barron  
Brown  
Bayfield  
Buffalo  
Burnett  
Calumet  
Chippewa  
Columbia  
Clark  
Dane  
Douglas  
Dodge  
Dunn  
Florence  
Eau Claire  
Fond du Lac  
Forest  
Grant  
Green  
Green Lake  
Iowa  
Jackson  
Jefferson  
Juneau  
Kenosha  
La Crosse  
LaFayette  
Langlade  
Lincoln  
Manitowoc  
Marathon  
Marquette  
Marquette  
Milwaukee  
Monroe  
Oconto  
Oneida  
Outagamie  
Ozaukee  
Portage  
Pierce  
Racine  
Rock  
Sauk  
Polk  
Price

St. Croix  
Sawyer  
Taylor  
Shawano  
Sheboygan  
Trempealeau  
Vilas  
Walworth  
Washington  
Waukesha  
Washburn  
Waupaca  
Waushara  
Winnebago  
Wood  
*Wyoming*  
Converse  
Crook  
Fremont  
Natrona  
Niobrara

**Exhibit D To Mortgage  
State of South Dakota**

**CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY**

A line of railroad beginning at the Southerly line of Section 14, Township 12 South, Range 7 East of the Black Hills Meridian, and extending Northerly for a distance of 155 miles, more or less, through Fall River County, Custer County, Pennington County, Meade County, Lawrence County, and Butte County, to the Westerly line of Section 19, Township 10 North, Range 1 East of the Black Hills Meridian.

**Exhibit E**

Nebraska and Missouri Trustees

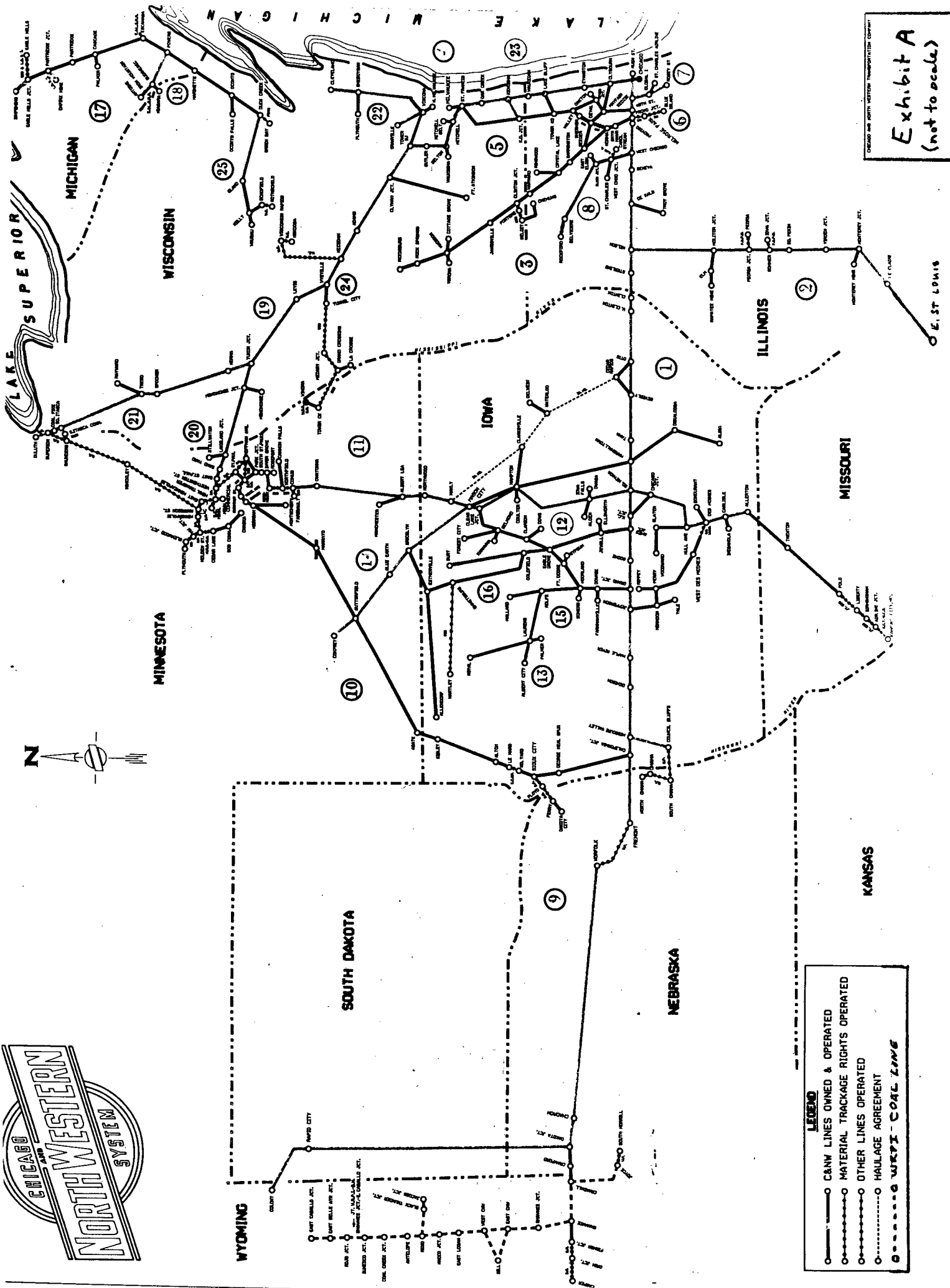
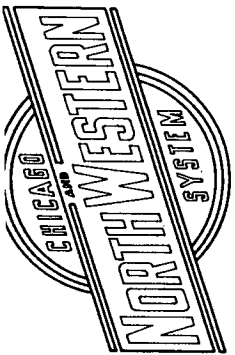
Nebraska: First American Title Insurance Company  
1905 Harney Street  
Omaha, Nebraska 68102

Missouri: Robert G. MeckFessel  
care of:  
First American Title Insurance Company of the Midwest  
8000 Maryland Avenue  
Clayton, Missouri 63105



APPENDIX to Clause FIRST of the  
Granting Clauses of this Mortgage

Attached as Exhibit A to this Appendix is a system map of the major rail lines of the Mortgagors. This map is intended to clarify the descriptions provided in clause FIRST of the granting clauses of this Mortgage by providing a pictorial representation of the line descriptions contained therein, and may also assist with the interpretation of clauses SECOND through THIRTEENTH of the granting clauses of this Mortgage. **THIS SYSTEM MAP IS INCLUDED FOR ILLUSTRATIVE PURPOSES ONLY.** It is not drawn to scale and does not purport to be a complete representation of the Mortgaged Property. The granting clauses to this Mortgage shall in all cases determine the Mortgaged Property encumbered by this Mortgage and in the event of inconsistencies, if any, between the descriptions derived from this system map and the granting clauses of this Mortgage, the granting clauses of this Mortgage shall govern.



CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY  
**Exhibit A**  
 (not to scale)

**LEGEND**

- C&NW LINES OWNED & OPERATED
- MATERIAL TRACKAGE RIGHTS OPERATED
- OTHER LINES OPERATED
- HAULAGE AGREEMENT
- WRTPI - COAL LINE