

MORTGAGE RECORD 75

out such request or demand.

ARTICLE IX.

The right of action under this indenture is vested exclusively in the Trustee, and under no circumstances shall any bondholder or any number of bondholders have any right to institute any action or other proceeding on or under this indenture for the purpose of enforcing any remedy herein provided, except in case of refusal on the part of the Trustee to perform any duty imposed on it by this instrument, and all actions and proceedings for the purpose of enforcing the provisions of this indenture shall be instituted and conducted by the Trustee according to its sound discretion, but the Trustee shall be under no obligation to institute and conduct such suit or to take any proceedings under this indenture until it shall be indemnified to its satisfaction for all expenses and costs of every kind. Should any suit or other proceeding be brought against the Trustee hereunder, by reason of any matter of thing connected with the trust hereby created, or by reason of the Trustee accepting and acting under this instrument, the Trustee shall be under no obligation to enter any appearance by counsel or in any way to appear in and defend such suit or proceeding, until indemnified to its satisfaction for so doing, but the Trustee may, nevertheless, appear and defend any such suit or proceeding without indemnity, if it shall elect so to do, and in such case it shall be compensated therefor from the trust fund and property held under this Trust Deed. Nothing herein shall prevent any bondholders from proceeding in their own name in case of maturity of the said bonds by lapse of time or by election of maturity of the said bonds for default, if the Trustee hereunder shall refuse to proceed after request and tender of reasonable indemnity.

ARTICLE X.

The Trustee shall only be responsible for reasonable diligence in the performance of the trust hereof, and shall not be answerable in any case for the acts or defaults of any agent, attorney, or employee selected or retained by it with reasonable discretion.

The Trustee shall be entitled to be reimbursed for all proper outlays of every sort and nature by it incurred in the discharge of its trust; and shall be entitled to receive in addition thereto, a reasonable and proper compensation for all duties that it may at any time perform in the discharge of the same; and all such proper outlays, fees and compensations shall constitute a lien on property and premises prior to any other claim hereunder.

The recitals herein contained and in said bonds are made on behalf of the parties of the first part, and the party of the second part is not, and shall not be responsible for the correctness of any statement herein contained.

In case at any time it shall be necessary or proper for the party of the second part or its successors, to make any investigation respecting any facts preparatory to taking or not taking any action, or doing or not doing anything under this Trust Deed as such Trustee, the affidavit of one of the parties of the first part shall be sufficient evidence of such fact to protect the said party of the second part or its successors, in any action that it may take by reason of the supposed existence of such fact.

ARTICLE XI.

It shall be no part of the duties of the party of the second part to see to the recording of this indenture as a Trust Deed or conveyance of real or personal estate, or to do any other act which may be suitable and proper to be done for the creating and continuing of the lien of this indenture, or for giving notice of the existence of such lien, nor shall it be any part of the duty of the Trustee to effect insurance against fire or other damage on any portion of said property, or to renew any policies of insurance, or to pay any taxes or assessments or liens on any of said properties, but the Trustee may, at its discretion, make or renew any such insurance or pay and discharge any such taxes, assessments, liens or insurance premiums in case of any default in respect thereto, by said first parties, and all payments so made by said Trustee shall constitute a lien on said trust property prior to the lien of said bonds.

ARTICLE XII.

Said party of the second part and its successors shall have no responsibility as to the validity of this Trust Deed or of the bonds issued hereunder or intended to be secured hereby, nor as to the execution or acknowledgment hereof, nor as to the amount or extent of the security afforded by the property covered by this Trust Deed, nor as to the title of the real estate herein described, and the Trustee shall not be in any way liable for the consequences of any breach on the part of said parties of the first part of the covenants herein contained, or for any other act or thing hereunder, except its own willful or intentional wrongdoing.

ARTICLE XIII.

The parties of the first part hereto agree that they will not at any time insist upon or plead, or in any manner take the benefit of any valuation, appraisal or stay laws of the State of Kansas, now or at any time hereafter in force; that every remedy provided in this instrument shall be, and be taken to be cumulative, and in addition to every other remedy herein given and now or hereafter existing by law, either independently of or in connection with the provisions of this Trust Deed, and further that both the principal and interest of all of the said Forty (40) bonds will be paid by the parties of the first part hereto without any deduction for taxes or charges in the nature thereof thereon, or on the debt or interest evidenced thereby, which the parties of the first part hereto may be required to pay or retain therefrom by any present or future law.

ARTICLE XIV.

The Trustee hereunder may resign or discharge itself of and from the trust hereby created upon and by giving notice, in writing, to the parties of the first part hereto, thirty (30) days before such resignation is to take effect, or such shorter time as the parties of the first part may accept as sufficient notice.

ARTICLE XV.

In case of any vacancy in the trusteeship hereunder, it shall be lawful for the holders of a majority in amount of the bonds then outstanding hereunder, to appoint a successor, and to fill the vacancy by a writing signed by them, recorded in the Register of Deeds office of Douglas County, in the State of Kansas, and upon such appointment being made and the trusteeship hereunder being accepted, any such successor shall, without further act or deed, become vested with all and singular the rights, powers and duties of his or its predecessor in the trusteeship hereunder, in like manner and with the same effect as if he or it have been named as Trustee originally in this instrument.

ARTICLE XVI.

The parties of the first part hereto covenant, promise and agree that they will pay promptly all said bonds and interest thereon as the same mature, and that all the undertakings of the parties of the first part in this Trust Deed contained, shall bind and inure to the benefits of their successors and assigns.

ARTICLE XVII.

The term "Trustee" as applied in this instrument shall be taken to mean and intend