

## MORTGAGE RECORD 75

and as a condition of and a part of the consideration for the issue thereof and the execution and delivery of this Indenture.

## ARTICLE IX.

## Consolidation, Merger, Sale, Lease.

Section 1. Nothing in this Indenture shall prevent the consolidation with the Company or merger into the Company of any other corporation, or prevent any consolidation with or merger into any other corporation by the Company or prevent the sale or lease by the Company of its property as an entirety, or substantially as an entirety, subject to the lien and provisions hereof, or prevent successive similar consolidations, mergers, leases and sales to which the Company or such successor corporation or corporations shall be a party or parties; provided that every such lease shall be made expressly subject to immediate termination by the Trustee at any time during the continuance of any event of default hereunder, and that every corporation formed by or resulting from such consolidation or merger or any purchaser to which such sale shall be made (any such corporation and any such purchaser being herein generally referred to as such successor) shall as a part and condition of such consolidation or merger, or as a part of the purchase price for the sale of the property of the Company as an entirety, expressly assume in writing the due and punctual payment of the principal and interest of all the Bonds and of all sinking fund payments, if any, required of the Company hereunder, and the observance and performance of all the covenants and conditions of this Indenture, in such manner as the Trustee shall deem sufficient to preserve and not to impair the priority, lien, security and benefits of this Indenture according to the reasonable intent hereof, and shall, simultaneously with the consummation of such consolidation, merger or sale (or simultaneously with the delivery to it of the conveyances of the property of the Company as an entirety, or substantially as an entirety, if such conveyances be delivered prior to the consummation of such consolidation, merger or sale) execute and deliver to the Trustee a proper instrument in form satisfactory to the Trustee, whereby such successor shall so assume the due and punctual payment of the principal and interest of all the Bonds and of all sinking fund payments, if any, required of the Company hereunder, and the observance of all the covenants and conditions of this Indenture; provided, however, that such instrument need not contain a grant by such successor of its property, but that if it does not contain a grant and assignment, as further security for all the Bonds hereby secured of all the property of such successor then owned and thereafter acquired, it shall contain on behalf of such successor:

(a) a grant confirming the lien hereof and subjecting to the lien hereof as a first lien (except as specified in the granting clauses hereof, and except Underlying Indentures on property of such successor to an extent permitted by the provisions hereof in respect of Underlying Indentures on property of the Company, and except for current taxes not then due and payable), or as a lien subject only to prior liens affecting the Mortgaged Property before the consolidation, merger or sale all repairs, renewals, replacements, substitutions, betterments and improvements then made and thereafter to be made on the Mortgaged Property;

(b) a covenant that all property thereafter acquired by it and necessary to the performance of any covenant hereof with respect to the Mortgaged Property shall be conclusively deemed subject to the prior lien hereof to the extent that such property would be so subject if acquired by the Company; and

(c) a covenant to keep the Mortgaged Property and its income as far as practicable readily segregated and identifiable.

Such supplemental indenture shall also stipulate that the Trustee shall not be taken impliedly to waive thereby any rights it would otherwise have.

Section 2. Such successor shall thereupon succeed to and be substituted for the Company with the same effect as if it had been named herein as the party hereto of the first part; and such successor may adopt and issue any unused Bonds theretofore executed by the Company and may cause to be signed and issued, either in its own name or in the name of the Company any or all of the Bonds which shall not theretofore have been executed by the Company and delivered to the Trustee, and the Trustee, upon the order of such successor, in lieu of the Company, and subject to all the terms, conditions and restrictions contained in this Indenture, shall certify any and all Bonds previously signed by the officers of the Company and so adopted and delivered by such successor to the Trustee for certification and any and all Bonds which such successor shall thereafter cause to be signed and delivered to the Trustee for that purpose. All Bonds so certified and issued shall in all respects have the same legal rank and security as the Bonds theretofore or thereafter issued in accordance with the terms of this Indenture as though all of said Bonds had actually been issued by the Company simultaneously with the execution and delivery of this Indenture and of the original issue of Bonds hereunder.

## ARTICLE X

## Redemption Provisions for Bonds of Series A

Section 1. The Bonds of Series A at any time outstanding may be called for redemption in whole or in part, at the option of the Company on any interest date prior to maturity, upon not less than thirty (30) days' prior notice given as hereinafter provided, at their face value plus a premium of three per cent (3%) of such value if called for redemption on or before November 1, 1937 and if called for redemption thereafter and on or before November 1, 1946 at their face value plus a premium of three per cent (3%) of such value reduced by one fourth per cent (¼%) of such value for each year or fraction thereof which shall have elapsed between November 1, 1937 and the date fixed for redemption in the call, and if called for redemption after November 1, 1946 at their face value, together in each case with accrued and unpaid interest to the date fixed for redemption in the call. If a part only of the Bonds shall be so called, the particular Bonds of Series A to be redeemed shall be selected by lot by the Trustee in any manner specified by the Company and deemed proper by the Trustee.

Notice of such redemption shall be given by publication in a daily newspaper printed in the English language of general circulation in Abilene, Kansas, not less than once a week for three (3) successive weeks prior to the date designated for redemption, the first publication to be not less than thirty (30) days prior to such redemption date. A similar notice shall be mailed, postage prepaid, at least thirty (30) days prior to such redemption date, to each registered holder of Bonds of Series A to be redeemed, at his address on the transfer registry, but such mailing shall be only for the convenience of such registered owners and shall not be a condition precedent to such redemption, and a failure so to mail any such notice shall not affect the validity of the proceedings for the redemption of such Bonds. The Trustee may accept the certificate of the President or the treasurer of the Company as sufficient evidence that the requirements of this section as to publication and mailing of notices of a call for redemption have been fully complied with; or the Trustee may, at its option and at the expense and on behalf of the Company, give such notice and take any other action required of the Company in connection with such redemption. Such notice shall specify the date and place designated for redemption and, in case of the redemption of a part only of such Bonds of Series A, such notice shall state also the issue numbers of the particular Bonds selected for redemption. Such notice shall also state that, after the deposit of money as herein required for their payment, the Bonds of Series A so designated for redemption shall cease to be entitled to any lien or security under this Indenture and that interest on such Bonds designated for redemption will cease on such redemption date.

Prior to the redemption date specified in said notice, the Company will deposit with the Trustee a sum of money sufficient to redeem, at the premium stated above, the Bonds so designated for redemption, and to pay the interest due thereon up to and on said redemption date, to be held as a special deposit, subject to the provisions of Subsection H of section 1 of article VII hereof, for