

## MORTGAGE RECORD 85

SECTION 5.05. This Indenture is, and always will be kept, a direct lien upon the premises and property conveyed by the Granting Clauses hereof, except as otherwise herein provided, and subject only to such liens as are permitted by this Indenture; and, except as otherwise herein expressly permitted, the Company will not create or suffer to be created any debt, lien or charge which would constitute a lien prior to or upon a parity with the lien of this Indenture upon the trust estate or any part thereof; and the Company will duly observe and conform to all valid requirements of any governmental authority relative to any of the mortgaged property, and all covenants, terms and conditions upon or under which any of the mortgaged property is held, and will from time to time pay or cause to be paid all taxes and assessments lawfully levied or assessed upon the trust estate or upon any part thereof or upon any income therefrom, when the same shall become lawfully due and payable, and also all taxes and assessments lawfully levied or assessed upon the lien or interest of the Trustee or of the Bondholders in respect of the mortgaged property, so that the lien of this Indenture shall at all times be wholly preserved at the cost of the Company and without expense to the Trustee or the Bondholders; and the Company will not suffer any mechanic's, laborer's, statutory or other similar liens to remain upon the mortgaged property or any part thereof, the lien whereof might or could be held to be prior to or on a parity with the lien of this Indenture except as aforesaid, and the Company will not suffer any other matter or thing whatsoever whereby the lien hereby created might be impaired; provided, however, that the Company shall have the right to contest, in good faith, by legal proceedings any such taxes, assessments or liens, and pending such contest may delay or defer the payment thereof, unless thereby the property affected will be forfeited.

SECTION 5.06. The Company will not, except and to the extent permitted in Article Six, do or suffer any act or thing whereby the trust estate might or could be impaired, and it will at all times maintain, preserve and keep the mortgaged property and every part thereof, in good condition, repair and working order. The Company will from time to time make all needful and proper repairs, renewals, replacements, additions, betterments and improvements of and to the mortgaged property, so that the operations and business thereof and every part thereof shall at all times be conducted properly and advantageously; and whenever any portion of the mortgaged property shall have been worn-out or destroyed or shall have become obsolete, inefficient or otherwise unfit for use, the Company will procure substitutes of at least equal value and efficiency, so that at all times the value and efficiency of the mortgaged property shall be fully maintained. The Company will at all times set aside proper and adequate depreciation reserves and will in respect thereof comply with all requirements and rules and regulations of all governmental authorities having jurisdiction in the premises.

Nothing herein contained shall be held to prevent the Company from discontinuing the operation of any of its plants, works or properties, if, in the judgment of the Board of Directors of the Company, it is no longer advisable and profitable to operate the same, or if the Company intends to sell or dispose of the same and within a reasonable time shall endeavor to effectuate such a sale; nor shall anything herein contained be construed to prevent the Company from taking such action with respect to the use of its plants, works and properties as is proper under the circumstances, including the cessation or omission to exercise any rights, permits, licenses, privileges or franchises which, in the judgment of the Board of Directors of the Company, can no longer be profitably exercised or availed of.

SECTION 5.07. The Company will pay or cause to be paid all indebtedness secured by any prior lien and will perform or cause to be performed all the terms, covenants and conditions to be performed by the mortgagor contained in the instruments creating any such lien, to such an extent as shall be necessary to prevent the security afforded by this Indenture from becoming materially impaired, and it will not permit any default under any such lien to occur and continue for the period of grace, if any, specified therein, if thereby the security afforded by this Indenture will be materially impaired; provided that no failure of the Company to pay any indebtedness secured by, or to observe or perform any provision of, any prior lien shall constitute or shall be deemed to be or to become a default under any provision of this Indenture if the Company shall have given written notice to the Trustee of its intention not so to pay or so to observe or perform, stating the facts with respect to such non-payment or non-observance, and shall file with the Trustee a certificate of the Company and a concurring opinion of counsel, each stating that, in the signers' opinion, failure to do so would not be detrimental to the best interests of the Bondholders hereunder.

SECTION 5.08. All property of every kind, real, personal or mixed, which may be acquired by the Company after the date hereof, except property of the character hereinabove expressly excepted and excluded from the lien hereof, shall immediately upon the acquisition thereof by the Company, to the extent of such acquisition, and without any further conveyance or assignment, become and be subject to the direct lien of this Indenture as fully and completely as though now owned by the Company and specifically granted and described in the Granting Clauses hereof. At any and all times the Company will do, execute, acknowledge and deliver or will cause to be done, executed, acknowledged and delivered, all and every such further acts, deeds, transfers and assurances for the better assuring, conveying and confirming unto the Trustee all and singular the property hereby conveyed or intended so to be, as the Trustee shall reasonably require for better accomplishing the provisions and purposes of this Indenture, and for securing payment of the principal of and interest on the Bonds issued hereunder.

SECTION 5.09. The Company will at all times keep all of the mortgaged property which is of an insurable nature and of the character usually insured by companies operating properties similar to the properties of the Company, insured against loss or damage by fire and from other causes customarily insured against by similar companies.

Said property shall be insured, to such amount as such property is usually insured by companies similarly situated, with insurers of good standing. All policies or other contracts for such insurance upon any part of the trust estate shall be deposited with the Trustee and shall provide, by endorsement or otherwise, that any one loss to property covered by such policies or contracts in an amount equal to or exceeding \$5,000, shall be payable to the Trustee as its interest may appear. The proceeds of all insurance received by the Trustee whether from insurers, or from the Company as hereinafter provided, shall be deposited with the Trustee and shall be held and paid over or applied by the Trustee as provided in Article Seven hereof.

All insurance proceeds amounting to less than the sum of \$5,000 in the aggregate on account of any one loss shall be payable solely to the Company, and the Company covenants and agrees that it will apply all such proceeds to the replacement or repair of the property destroyed or damaged, and/or to the improvement of the mortgaged property, and/or to one or more of the purposes mentioned in Article Seven hereof, and will, from time to time, file with the Trustee a certificate or certificates showing that all such insurance proceeds received by the Company have been so applied by it; provided, however, that upon the happening of an event of default, as defined in Section 8.01 hereof, the Company agrees that it will forthwith pay to the Trustee any such unapplied insurance proceeds then held by it, and, forthwith upon the receipt thereof by it, will pay to the Trustee all such insurance proceeds which it receives after an event of default shall have happened and while the same remains unremitted.

In case any part of the trust estate covered by any policy of insurance shall suffer loss or damage, any apportionment or adjustment of any such loss or damage and any settlement and payment of indemnity therefor which may be agreed upon between the Company and any insurer, as evidenced by a certificate of the Company, may be assented to and accepted by the Trustee in its discretion without any inquiry or investigation whatsoever, and the Trustee shall be in no way liable or responsible for the collection of any insurance moneys in case of loss or damage.

As soon as practicable after the execution of this Indenture, but not later than October 1, 1939