

MORTGAGE RECORD 85

maker thereof and may thereupon adopt and issue any bonds theretofore executed by the Company and may cause to be signed, issued and delivered, either in its own name or in the name of the Company or in the name of any intermediate successor corporation, any or all such Bonds which shall not theretofore have been signed by the Company or any intermediate successor corporation and authenticated by the Trustee, and, upon the order of the successor corporation in lieu of the Company and subject to all the terms, conditions and restrictions of this Indenture prescribed with respect to the authentication and issuance of Bonds, the Trustee shall authenticate and deliver any and all of such Bonds which shall have been previously signed and delivered by the officers of the Company or any intermediate successor corporation to the Trustee for authentication, and any and all of such Bonds which such successor corporation shall thereafter, in accordance with the provisions of this Indenture, adopt or cause to be signed by its appropriate officers and delivered to the Trustee for such purpose. All the Bonds so authenticated 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 been issued by the Company at the date of the execution hereof.

SECTION 10.03. In respect of property owned by the Company at the time of any consolidation, merger, sale, conveyance or transfer to which Section 10.02 is applicable, and substitutions, replacements, renewals, accessions, additions, alterations, improvements, betterments, developments, extensions and enlargements thereto subsequently made, constructed or acquired, the rights and duties of the successor corporation hereunder shall be the same as the rights and duties of the Company would have been had such consolidation, merger, sale, conveyance or transfer not taken place.

In respect of property (other than property then owned by the Company, referred to in the first paragraph of this Section 10.03) at the time of such consolidation, merger, sale, conveyance or transfer:

(1) owned by the successor corporation, and/or

(2) owned by any other corporation or corporations merged or consolidated into or with, or the property of other corporations which is conveyed or transferred to, such successor corporation, and/or

of property thereafter acquired by the successor corporation, except said substitutions, replacements, renewals, accessions, additions, alterations, improvements, betterments, developments, extensions and enlargements to, of or upon the property then owned by the Company referred to in the first paragraph of this Section 10.03, this Indenture or the supplemental Indenture to be filed as above provided in said Section 10.02 shall not become or be a lien upon any of such property except so much thereof as shall be subjected to the lien hereof by supplemental Indenture, duly executed. Such supplemental Indenture may, but need not necessarily, form one and the same instrument with the supplemental Indenture first provided for in said Section 10.02. Nothing herein shall be construed to prevent such supplemental Indenture, at the option of the Company or the successor corporation, from subjecting to the lien hereof all property of such successor corporation then owned or thereafter acquired.

ARTICLE ELEVEN CONCERNING THE TRUSTEE

SECTION 11.01. The Trustee, for itself and its successors, hereby accepts the trusts of this Indenture, but only upon the following additional terms and conditions, to which the Company and the Bondholders agree, to wit:

(a) the recitals herein and in the Bonds contained shall not be considered as made by or imposing any obligation or liability upon the Trustee. The Trustee makes no representations as to the value or condition of the mortgaged property or any part thereof, or as to the title of the Company thereto, or as to the security afforded thereby or hereby, or as to the validity of this Indenture or of the Bonds or coupons issued hereunder, and the Trustee shall incur no liability or responsibility in respect of any of such matters;

(b) the Trustee shall be under no duty to record, register, file, or re-record, or cause to be recorded, registered, filed, or re-recorded this or any supplemental Indenture or other instrument of further assurance which it may hereafter receive as herein provided, or to procure any supplemental Indenture or any further, other or additional instrument of further assurance or to give notice to anyone of the existence of the lien of this Indenture or of any such other Indenture or instrument;

(c) the Trustee shall be under no obligation to see to the delivery to it of any obligations or evidences of indebtedness or other securities required to be delivered to it hereunder, or to see that any of the property hereby intended to be conveyed or assigned is properly and legally subjected to the lien hereof. The Trustee need not take any action to secure the conveyance to or deposit with it of any property acquired by the Company after the date of the execution hereof;

(d) the Trustee shall be under no duty to procure or renew, or under any liability for the failure of the Company to procure or renew, insurance; or to keep itself informed or advised as to procurement of any or all insurance, or as to the payment of premiums thereon; nor shall the Trustee be responsible for any insurer;

(e) the Trustee shall be under no duty or liability in respect of any tax, assessment or other governmental charge which may be levied, assessed or imposed against the Company or the Trustee or the holders of the Bonds by reason of their interest in the mortgaged property, or against the mortgaged property, nor shall the Trustee be under any duty to pay or to see to the payment of any such tax or to take any notice of any assessment thereof or to give any notice thereof to the holders of the Bonds or to any other person, or as to the payment of any rents or other charges or liens upon the trust property, at any time, or upon any part thereof. The Trustee may, however, in its discretion, do, perform or observe, or cause to be done, performed or observed, all or any of the matters or things, and all or any of the terms, covenants and conditions, on the part of the Company to be performed or observed, in this Indenture set forth; provided, however, that no such action by the Trustee shall relieve the Company from any consequence of any failure upon its part itself to have performed or observed, or caused to have been performed or observed, any term, covenant or condition hereunder, by it to be performed or observed;

(f) the Trustee shall be under no responsibility or duty with respect to the disposition of the Bonds or the application of the proceeds thereof or of any moneys paid to the Company under any of the provisions hereof;

(g) the Trustee may execute any of the trusts or powers hereof and perform any duty hereunder either itself or by or through its attorneys, agents or employees, nor shall it be responsible for any act, default, neglect or misconduct of any such attorneys, agents or employees, if reasonable care shall have been exercised in their appointment and retention, or for the exercise of any discretion or power hereunder, or for anything whatsoever in connection with this trust except his or its own willful default or gross negligence;

(h) the Trustee may, at the expense of the Company, advise with legal counsel, who may be counsel to the Company, to be selected and employed by it, and the Trustee shall not be liable for any action taken or suffered by it in good faith in accordance with the opinion of such counsel;

(i) the Company shall pay to the Trustee, from time to time on demand, a reasonable compensation for all services rendered by the Trustee hereunder (which shall not be limited to the compensation of trustee of any express trust as provided by law) and also all reasonable expenses, charges, counsel fees and other disbursements and those of its agents, attorneys and employees incurred in the administration and execution of the trusts hereby created, and the Company agrees to indemnify and save the Trustee against any liability or damages which it may incur or sustain in the exercise and performance of any of its powers and duties hereunder. All such rights to compensation, rein-