

MORTGAGE RECORD 85

bursement and indemnification shall include interest at the rate of six per cent (6%) per annum from the time of creation, shall be payable on demand, and the Trustee shall have a lien for such compensation, expenses and indemnity on the mortgaged property and the proceeds thereof prior to the lien of the Bonds and coupons;

(j) the Trustee shall not be personally liable for any debt contracted or for any expenditure made by it in operating the business of the Company or for any damage to persons or property or for any salary or non-fulfillment of any contract during any period in which the Trustee shall manage the property of the Company or any part thereof, upon entry as herein provided, and the trust estate is hereby charged with a paramount lien in favor of the Trustee as security and indemnification against any such liability;

(k) the Trustee shall be under no duty or obligation to perform any act hereunder or to appear in, institute or defend any suit in respect hereof, or of the mortgaged property, unless requested so to do by the holders of at least 25% in amount of the Bonds then outstanding and unless also one or more of the holders of the Bonds shall, as often as required by the Trustee, furnish it with indemnity satisfactory to the Trustee against all expense and liability. The Trustee shall not be required to ascertain or inquire as to the performance of any of the covenants or agreements herein contained on the part of the Company. The Trustee shall not be required to take notice, or be deemed to have knowledge, of any default hereunder, and may for all purposes conclusively assume that there has been no default under this Indenture, unless and until notified in writing of such default by the holders of at least 10% in amount of the Bonds then outstanding;

(l) the Trustee shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, opinion, statement, bond, obligation, appraisal or other paper or document believed by it to be genuine and to have been signed by the proper party or parties or by a person or persons authorized to act on its behalf. The Trustee may receive a certificate signed by the Secretary or an Assistant Secretary of the Company under the corporate seal of the Company, as sufficient evidence that any resolution has been duly adopted by the Board of Directors of the Company and/or that the same is still in full force and effect. Except as otherwise expressly provided in this Indenture, a certificate of the Company as to the existence or non-existence of any fact pertinent to the right of the Trustee to take or refrain from taking any action under this Indenture, may be accepted by the Trustee as conclusive evidence of the facts therein stated, and shall constitute full protection to the Trustee for any action taken or omitted to be taken by it in reliance thereon;

(m) the Trustee shall not be under any duty to examine into or pass upon the validity or genuineness of any securities at any time pledged and deposited hereunder, and the Trustee shall be entitled to assume that any securities presented for pledge and deposit hereunder are genuine and valid and what they purport to be, and that any endorsement or assignment thereon is genuine and legal;

(n) the Trustee may buy, hold, sell or deal in the Bonds and coupons issued hereunder and other securities of the Company or of any corporation in which the Company may be interested, or may engage in or be interested in any financial or other transaction with the Company, or any corporation in which the Company may be interested, and the Trustee may act as depository, trustee, transfer agent, registrar or agent for the Company or for any committee or other body, firm or corporation in respect of any bonds, notes or other securities whether or not issued pursuant hereto, all with the same rights as though it were not Trustee hereunder.

Specifically and without limiting the generality of the foregoing, the Company or any corporation in which the Company may be interested shall be entirely free to borrow from time to time and at any time from any bank or trust company that may at the time be Trustee hereunder, and any bank or trust company which may at the time be Trustee hereunder, shall be entirely free to lend at any time and from time to time to the Company or to any corporation in which the Company may be interested on a secured or unsecured basis and all upon such terms and conditions generally as may be agreed upon between such borrower and such lender, and such lender shall have the right freely to enforce all remedies available to it at law or in equity or in bankruptcy for the collection of any such loan, all as fully and to the same extent as though such lender were not the Trustee hereunder; and

(o) if the Company shall fail to perform any of the covenants contained in Article Five hereof, the Trustee may, in its uncontrolled discretion, at any time and from time to time, make advances to effect performance of the same on behalf of the Company, but the Trustee shall not be under any obligation so to do; and any and all moneys paid or advanced by the Trustee for any such purpose, together with interest thereon at the rate of 6% per annum, shall be repaid by the Company upon demand and shall be secured under this Indenture by a lien in favor of the Trustee upon the trust estate prior to the lien of the Bonds and coupons; but no such advance shall operate to relieve the Company from any default hereunder.

SECTION 11.02. The Trustee may resign and be discharged from the trusts created by this Indenture by giving written notice thereof to the Company at least 30 days prior to the effective date thereof, or such shorter time as may be accepted by the Company as sufficient notice.

The Trustee may be removed at any time by an instrument or concurrent instruments in writing signed by the holders of at least a majority in amount of the Bonds then outstanding.

SECTION 11.03. In case at any time The Fourth National Bank in Wichita or any Trustee hereafter appointed shall resign or be removed or otherwise become incapable of acting, a successor to such Trustee may be appointed by the holders of at least a majority in amount of the Bonds then outstanding by an instrument or concurrent instruments in writing signed by such Bondholders or by their duly authorized attorneys-in-fact if such appointment by such Bondholders be made prior to the expiration of 12 months after the completion of the publication of notice of an appointment by the Company as hereinafter provided. Unless and until a new Trustee shall be appointed by the Bondholders as herein authorized, the Company, by an instrument in writing executed by order of its Board of Directors, shall appoint a Trustee to fill such vacancy.

After any such appointment by the Company, it shall publish notice of such appointment once in each of 2 successive calendar weeks in one daily newspaper printed in the English language and published and of general circulation in the City of Wichita, Kansas, and in one daily newspaper printed in the English language and published and of general circulation in the City of Lawrence, Kansas, (in each instance upon any secular day of the week and in any such newspaper). Any new Trustee so appointed by the Company shall immediately and without further act be superseded by a Trustee appointed in the manner above provided by the holders of at least a majority in amount of the Bonds then outstanding. Every Trustee appointed under the provisions of this Section 11.03 shall be a trust company or bank organized under the laws of the State of Kansas, or a national banking association organized under the laws of the United States of America, and under such laws authorized to act as Trustee hereunder, and domiciled in the State of Kansas, and having a capital, undivided profits and surplus aggregating at least \$1,000,000, if there be such a trust company or bank willing and able to accept the trust on reasonable and customary terms. Any new Trustee appointed hereunder shall execute an instrument accepting such appointment hereunder and shall deliver one counterpart thereof to the Company, and one counterpart thereof to the retiring Trustee. Upon the execution and delivery of such instrument or instruments of acceptance, such new Trustee shall, without any further act, deed or conveyance, become vested with all the estates, properties, rights, powers and trusts of its predecessor