

MORTGAGE RECORD 85

or predecessors in the trust hereunder with like effect as if originally named as Trustee herein; but the Trustee retiring shall, nevertheless, if and when requested in writing by either the new Trustee or the Company, and upon payment of its lawful charges and disbursements then unpaid, if any, execute and deliver an instrument or instruments conveying and transferring to such new Trustee, upon the trusts herein expressed, all the estates, properties, rights, powers and trusts of the Trustee so retiring, and shall duly assign, transfer and deliver to the new Trustee so appointed in its place all property and money held by it hereunder. Should any deed, conveyance or instrument in writing from the Company be required by any new Trustee for more fully and certainly vesting in and confirming to it the said estates, properties, rights, powers and trusts, then any and all such deeds, conveyances and instrument in writing shall, on request of said new Trustee, be made, executed, acknowledged and delivered by the Company.

SECTION 11.04. Any corporation into which the Trustee may be merged or with which it may be consolidated or any corporation resulting from any merger or consolidation to which the Trustee shall be a party, or any corporation which shall otherwise become the lawful successor to the assets and business of the Trustee as an entirety or substantially as an entirety, shall be the successor of the Trustee hereunder without the execution or filing of any instrument or any further act on the part of any of the parties hereto, anything herein contained to the contrary notwithstanding, provided such corporation shall be a corporation organized under the laws of a State of the United States of America, or under the laws of the United States of America.

SECTION 11.05. At any time or times in order to conform to any legal requirements, the Trustee and the Company shall have power to appoint, and shall unite in the execution and delivery of all instruments and the performance of all acts necessary or proper to appoint, another trust company or bank or one or more persons designated by the Board of Directors of the Company and approved by the Trustee, either to act as co-trustee or co-trustees of all or any part of the trust estate jointly with the Trustee, or to act as substitute trustee or trustees of any part of the same, and in any case with such of the powers, rights and duties hereto conferred or imposed on the Trustee, and for such term, if any limitation is placed thereon, as may be specified in the instrument of appointment, according as such instrument or instruments may prescribe; and, if an event of default shall have happened and shall not have been remedied, the Trustee shall have power, without notice to or any action on the part of the Company and without the necessity of the execution of any such instrument of appointment by the Company, to appoint such co-trustee or co-trustees or substitute trustee or trustees as aforesaid, and to execute all instruments and perform all acts necessary or convenient and proper for such purpose. The Trustee may receive the opinion of any counsel approved by it as to the necessity or propriety of appointing any such co-trustee or substitute trustee and as to the form and effect of any such instrument to be executed or any act to be taken to effect such appointment and as to any other matter arising under this Section 11.05, and such opinion shall be full protection to the Trustee for any action taken or omitted to be taken by it pursuant thereto.

SECTION 11.06. Any notice to or demand upon the Trustee may be served or presented, and such demand may be made, at the office of the Trustee. Any notice to or demand upon the Company shall be deemed to have been sufficiently given or served by the Trustee on the Company, for all purposes, by being deposited, postage prepaid, in a post office letter box addressed to the Company at its office in the State of Kansas.

ARTICLE TWELVE POSSESSION UNTIL DEFAULT AND DEFEASANCE.

SECTION 12.01. Until the happening of an event of default, the Company shall be suffered and permitted to possess, use and enjoy the mortgaged property, except money, securities and other personal property pledged or deposited with or required to be pledged or deposited with the Trustee hereunder, and to receive and use the rents, issue, income, revenues, earnings and profits thereof, with full power in the ordinary course of business to use and consume materials and supplies, and except as herein expressly provided to the contrary, to exercise any and all rights under or in relation to choses in action, leases and contracts.

SECTION 12.02. If the Company shall pay and discharge the entire indebtedness hereby secured in any one or more of the following ways, to wit:

A. by well and truly paying or causing to be paid the principal of (including redemption premium, if any) and interest on all the Bonds outstanding hereunder, as and when the same become due and payable;

B. by depositing with the Trustee, in trust, at or before maturity, the entire amount due and to become due on all the Bonds then outstanding hereunder, for both principal and interest, and redemption premium, if any; or

C. by delivering to the Trustee, cancelled or for cancellation, Bonds outstanding hereunder, together with all unpaid coupons thereto belonging;

and if the Company shall also pay or cause to be paid all other sums payable hereunder by the Company, then and in that case this Indenture and the lien, rights and interests hereby granted shall cease, determine and become null and void; and thereupon the Trustee shall, upon demand of the Company, forthwith cause satisfaction and discharge of this Indenture to be entered upon the record at the cost and charge of the Company, and shall execute and deliver such instruments of satisfaction as may be necessary, and forthwith the estate, right, title and interest of the Trustee in and to any securities, cash (except money deposited under this Section 12.02,) and other personal property held by it under this Indenture shall thereupon cease, determine and become null and void and the Trustee shall in such case transfer, deliver and pay the same to or upon the written order of the Company.

The Company may at any time surrender to the Trustee, cancelled or for cancellation, any Bonds previously authenticated and delivered hereunder, together with all unpaid coupons thereto belonging, which the Company may have acquired in any manner whatsoever, and such Bonds and coupons, upon such surrender and cancellation, shall be deemed to be paid and retired. The Trustee shall be under no duty whatsoever to inquire into the ownership of any Bonds or coupons delivered to it by the Company as aforesaid.

ARTICLE THIRTEEN. SUNDRY PROVISIONS.

SECTION 13.01. All the covenants, stipulations, promises and agreements in this Indenture contained by or in behalf of the Company, shall bind and inure to the benefit of its successors and assigns, whether so expressed or not.

SECTION 13.02. No recourse shall be had for the payment of the principal of, or the interest on, any Bond, or for the payment of any coupon, or for any claim based thereon or otherwise in respect hereof or of this Indenture or any indenture supplemental hereto, against any incorporator or against any stockholder, director or officer, past, present or future, of the Company, as such or of any predecessor or successor corporation, either directly or through the Company or any such predecessor or successor corporation, whether for amounts unpaid on stock subscriptions or by virtue of any constitution, statute or rule of law or equity, or by the enforcement of any assessment or penalty or otherwise howsoever, all such liability being expressly waived and released as a condition of and as part of the consideration for the execution of this Indenture and for the issue of such Bonds and coupons.

SECTION 13.03. Nothing in this Indenture expressed or implied is intended or shall be construed to give to any person or corporation other than the Company, the Trustee, and the holders of the Bonds and coupons issued hereunder, any right, remedy or claim under or in respect of this Indenture, or any indenture supplemental hereto, or any covenant, condition or provision herein or therein contained; and all such covenants, conditions and