

MORTGAGE RECORD 85

Railroad Company or any corporation in which the Railroad Company may be interested, and the Trustee may act as depositary, trustee, transfer agent, registrar or agent for the Railroad 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, with the same rights as if the Trustee were not Trustee hereunder.

(p) It shall not be any part of the duties of the Trustee to keep itself informed or advised in respect of the payment of any taxes, assessments or governmental charges or to require payment thereof to be made. Any law of the United States, or of any state, now existing or hereafter enacted, to the contrary notwithstanding, the Trustee shall be under no obligation to pay any taxes, assessments or governmental charges of any kind or character of or in respect to the property mortgaged or pledged or the lien created, evidenced or secured by this Indenture or any other tax, assessment or governmental charge of any kind or character levied or imposed by reason of, or upon, this Indenture or the indebtedness secured hereby, nor shall the Trustee be liable because of the non-payment of any such tax, assessment or governmental charge.

(q) No implied covenant shall be read into this Indenture against the Trustee, but the duties of the Trustee to the Railroad Company and to all others shall be determined solely by the provisions of this Indenture; and all questions or controversies as to the liability of the Trustee hereunder shall be governed by the laws of the State of New York.

(r) Except as herein otherwise provided, any notice or demand which by any provisions of this Indenture is required or permitted to be given or served by the Trustee on the Railroad Company, shall be deemed to have been sufficiently given and served for all purposes by being deposited postage prepaid in a United States post office letter box or mail-chute, addressed (until another address is filed by the Railroad Company with the Trustee) as follows: Union Pacific Railroad Company, 120 Broadway, New York, N.Y.

(s) Except as herein otherwise provided, any notice, request, demand, consent or other writing which by any provision of this Indenture is required or permitted to be given, served or delivered to or on the Trustee by the Railroad Company shall be deemed to have been sufficiently given, served and delivered for all purposes by being either delivered in person or sent by United States registered mail, postage prepaid, addressed (until another address is filed by the Trustee with the Railroad Company) to The Chase National Bank of the City of New York, 11 Broad Street, New York, N.Y.

(t) The Trustee shall not be bound to recognize any person as the holder of a Bond outstanding hereunder unless and until the Bond is submitted to the Trustee for inspection if required, and the Title thereto established to the satisfaction of the Trustee, if disputed.

(u) Any action at any time taken by the Trustee pursuant to or with respect to this Indenture, at the request or with the consent or approval (expressed or implied) of any person who at the time is the holder of any Bond secured hereby, shall be conclusive and binding upon all future holders of such Bond.

(v) The Trustee may construe any of the provisions of this Indenture, in so far as the same may appear to be ambiguous or inconsistent with any other of such provisions; and any construction so placed upon any provision hereof by the Trustee in good faith and in accordance with the advice of counsel (who may be counsel regularly retained by the Railroad Company) shall be binding upon the Railroad Company and upon all holders of the Bonds.

(w) All rights of action under this Indenture may be enforced by the Trustee without the possession of any of the Bonds or the production thereof on the trial or other proceedings relative thereto.

SECTION 2. Any moneys which at any time shall be deposited by the Railroad Company with the Trustee for the purpose of paying any of the Bonds which shall become due and payable either at maturity thereof or upon call for redemption, or otherwise, or for the purpose of paying the interest due and payable on the Bonds issued hereunder, shall be and are hereby assigned, transferred and set over unto the Trustee in trust for the respective holders of the Bonds for the purpose of paying which the said moneys shall have been deposited; and in the event of the appointment of a receiver or of a trustee in bankruptcy or reorganization proceedings of the Railroad Company or of its property, neither such receiver nor such trustee in bankruptcy, nor any other person shall have any right, title or interest in said moneys so deposited, or in any part thereof. Any money so deposited with the Trustee unclaimed for six years after the date when such Bonds and coupons shall be payable shall then be repaid by the Trustee to the Railroad Company, and all liability of the Trustee with respect to such money shall thereupon cease and the holders of such Bonds and coupons shall thereafter be entitled to look only to the Railroad Company for payment thereof. In no event shall the holder of such Bonds and coupons be entitled to interest upon such money whether held by the Trustee or so repaid to the Railroad Company.

All Bonds and coupons paid hereunder shall be cancelled and on its written request delivered to the Railroad Company or cremated and a certificate of such cremation furnished the Railroad Company by the Trustee.

SECTION 3. The Trustee may resign, and be discharged from the trusts created by this Indenture, by giving to the Railroad Company notice in writing of such resignation, specifying a date when such resignation shall take effect, and by publishing a similar notice of such resignation at least once in each of two successive calendar weeks, the first publication to be on a day not less than thirty days nor more than sixty days prior to the date so specified, in a newspaper of general circulation in the Borough of Manhattan, City of New York. Such resignation shall take effect on the date specified in such notice, unless previously withdrawn by like notice similarly served and published once in such newspaper, or unless previous to such withdrawal a successor trustee shall be appointed as hereinafter provided in which last mentioned event such resignation shall take effect immediately upon the appointment of such successor trustee. The Trustee shall also have the right, upon being directed by the holders of a majority in principal amount of the Bonds, pursuant to Section 20 of Article Seven hereof, to take any action which the Trustee shall be unwilling to take, forthwith to resign as Trustee hereunder and thereupon be discharged from the trusts created by this Indenture, by giving to the Railroad Company notice in writing of such resignation.

The Trustee or any successor hereunder may be removed at any time by an instrument in writing, or concurrent instruments in writing, signed by the holders of a majority in principal amount of the Bonds at the time outstanding, or their attorneys thereunto duly authorized. Upon resignation or removal, the Trustee shall be entitled to the payment of its expenses, advances and reasonable charges for the services rendered by it in the management of the trust, upon compliance with all provisions of Section 5 of this Article Eleven.

SECTION 4. Any company into which the Trustee, or any successor to it in the trusts created by this Indenture, may be merged or with which it, or any such successor to it, may be consolidated, or any company resulting from any merger or consolidation to which the Trustee, or any such successor to it, shall be a party, provided such company shall be a corporation organized under the laws of the State of New York or a corporation organized as a national banking association under the laws of the United States of America and shall do business in the Borough of Manhattan, in the City and State of New York, shall be the successor trustee under this Indenture, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding. In case any of the Bonds shall have been authenticated, but not delivered, any such successor may adopt the certificate of authentication of The Chase National Bank of the City of New York, or of any successor to it, as trustee hereunder, and deliver the same so authenticated; and in case any of the Bonds shall not have been authenticated, any successor trustee may authenticate such Bonds either in the name of any predecessor trustee, or in the name of such successor trustee, and in all such cases such certificate shall have the full force which it is anywhere in said Bonds or this Indenture provided that the certificate of the Trustee shall have.

SECTION 5. In case at any time the Trustee, or any successor trustee, shall resign or shall be removed or otherwise shall become incapable of acting, or in case a vacancy shall arise from any cause in the trusteeship under this Indenture, a successor or successors may be appointed by the holders of a majority in principal amount of the Bonds then outstanding, by an instrument or concurrent instruments signed by