

MORTGAGE RECORD 88

(g) The Trustee shall be protected in acting upon any resolution, notice, request, consent, certificate, affidavit, voucher, bond or other paper or document believed by it to be genuine and to have been passed or signed by the proper party. The fact of the adoption of a resolution by the Board of Directors of the Company, or by the stockholders of such Company, for the purpose of this indenture shall be sufficiently evidenced to the Trustee by the certificate of the Secretary of such Company under its corporate seal. The Trustee may, however, in its discretion require other evidence.

(h) The Trustee shall not be liable for the exercise of any discretion or power hereunder or mistake or error in judgment, or otherwise, in connection with this trust, except for its own wilful misconduct or gross negligence.

(i) The Trustee may become the owners of Bonds hereby with the same rights which it would have if it were not Trustee.

(j) The provisions of this Article are intended for the protection of the Trustee, and shall not be construed to limit any discretion or power by any provision of this Indenture given the Trustee to determine whether or not it shall take any action hereunder; and the Trustee in its discretion, and at the expense of the Company or the mortgaged property, may do or procure to be done any of the things in this Indenture set forth and the so doing shall not be construed as a waiver of their exemption from responsibility therefor.

Section 2. The Trustee, or any trustee or trustees hereafter appointed, may resign and be discharged of the trusts created by this Indenture by sending written notice thereof by registered mail to the Company, and by giving to the registered owners of the Bonds like notice of their respective latest addresses as shown by the registration books aforesaid, and such resignation shall take effect thirty days after the mailing and first publication of such notice.

In case at any time the Trustee, or any trustee hereafter appointed (including any additional trustee under any section of this article), shall resign or be removed or otherwise become incapable of or be or become disqualified from acting, then, except as hereinafter otherwise provided, a successor or successors may be appointed by the registered owners of a majority in principal amount of the Bonds then outstanding, by an instrument, or concurrent instruments, signed by such bond owners, or their attorneys in fact duly authorized; provided, nevertheless that if at any time there shall be a vacancy in the office of the Trustee hereunder, the Company, by an instrument executed by order of its Board of Directors, may appoint a trustee to fill such vacancy until a new trustee shall be appointed by the bond owners, or otherwise as herein authorized. The Company shall thereupon give notice of such appointment as in case of notice to the Bondowners by the Trustee of its resignation; but 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 registered bond owners, or otherwise as herein authorized.

Any new trustee appointed hereunder shall execute, acknowledge and deliver to the Company, an instrument accepting such appointment hereunder, and thereupon such new Trustee shall become vested with all the estates, properties, interests, rights, powers and trusts, and with all the functions of its or his predecessor in the trust hereunder with like effect as if originally named as trustee herein without any further act, deed or conveyance; but the Trustee ceasing to act shall, nevertheless, on the written request of the new trustee or the Company, and after payment to the Trustee ceasing to act of its or his reasonable compensation then accrued and unpaid, and reimbursement of its or of his proper expenses theretofore incurred and not previously reimbursed, execute and deliver an instrument transferring to such new Trustee, upon the trusts herein expressed, all the estates, properties (including moneys and securities), interests, rights, powers and trusts of the Trustee so ceasing to act, and shall duly assign, transfer and deliver any moneys and securities held by such Trustee to the new Trustee so appointed in its or his place.

Should any deed, conveyance or instrument in writing from the Company be required by any new Trustee for more fully and certainly vesting in or conforming to such new Trustee, such estates, properties, interests, rights, powers and trusts, all such deeds, conveyances and instruments in writing shall, on request, be made, executed, acknowledged and delivered by the Company.

Any Company into which the Trustee herein named may be merged, or with which it may be consolidated, or any company resulting from any merger or consolidation to which the Trustee shall be a party, if qualified to act hereunder, shall be the successor to the Trustee herein without the execution or filing of any paper or other further act on the part of the parties hereto, anything herein contained to the contrary notwithstanding.

Upon the appointment of any new Trustee hereunder, it shall be the duty of the Company to execute a certificate of such appointment under its corporate seal, and to cause the same to be recorded in the same manner as this Indenture shall have been recorded.

Every instrument appointing a successor Trustee or Trustees shall refer to this Indenture and the conditions in this Article XI expressed, and upon the acceptance in writing by such successor trustee or Trustees, he, they, or it shall be vested with the estates and property specified in such instrument, subject to all the trusts, conditions, covenants and provisions of this Indenture. Every such instrument shall be filed with the Commerce Trust Company or its successor is the trust.

Section 3. Any and every trustee appointed in place of Dale W. McNeal, or of any successor to him as Individual Trustee in the trust, shall be a person appointed by the registered owners of a majority in principal amount of the Bonds then outstanding, or pending such appointment, by the Company until action by the bondowners, as hereinbefore provided.

It is expressly agreed by and between all of the parties hereto, that notwithstanding any provisions of this mortgage which might be subject to a different interpretation, all powers and rights conferred by this mortgage and all duties hereby imposed with respect to the certification, registration, delivery, redemption and handling of the Bonds and the collection, control and disbursement of moneys and keeping of documents, in and under the terms of this trust, are hereby so conferred and imposed upon said Commerce Trust Company, the Corporate Trustee, Registrar and Transfer and Fiscal Agent, hereunder, and the duly appointed successors to the Corporate Trustee herein so named; and no provision in Articles I and II, Sections 7, 8 and 11 of Article III, Article IV, and/or the provisions of Article V of this mortgage with respect to the receipt, holding and disbursement of money under the terms of this trust, shall be deemed or construed to mean or include the Individual Trustee herein named, or any successor to him as Individual Trustee, except only that any such Individual Trustee shall have and is hereby given power to join with the Corporate Trustee in the execution and delivery of any release or releases in whole or in part, of the lien of this Mortgage, which the Trustees shall be authorized to execute by the terms of this Mortgage; and all of the provisions of the Articles and the Sections being parts of Article III, last hereinbefore mentioned, shall be construed and held to confer all of the powers and rights and to impose all of the obligations therein specified with respect to this trust, upon the Commerce Trust Company as Corporate Trustee, and upon its duly appointed and qualified successors as such Corporate Trustee.

All of the estates, right and interest by this mortgage conveyed, assigned or transferred to the Trustees, are conveyed, assigned and transferred to them as joint tenants and not as tenants in common, but none of the same shall be conveyed or in any manner dealt with otherwise by the Individual Trustee unless acting in conjunction with the Corporate Trustee hereunder, or in a jurisdiction in which the Corporate Trustee then acting hereunder may be incompetent or not qualified to act as such Trustee or may be advised that it should not so act, for any reason. Except as it may be deemed necessary for the said Dale W. McNeal or a successor to him as Individual Trustee solely and exclusively to exercise the powers and perform the duties which it is contemplated hereby shall be exercised by the Trustees jointly, Commerce Trust Company, Trustee, or its successor or successors specifically so designated, solely may have and exercise the powers, and shall be charged solely with the performance of the duties hereinbefore declared to be had and exercised on the part of the Trustees, or to be performed by them. Such Individual Trustee, or his successor, may delegate to the Commerce Trust Company or to its expressly designated and appointed successor, the exercise of any power or the discharge or any duty, discretionary or otherwise, conferred by the provisions of this Mortgage insofar as it shall be lawful for such Corporate Trustee acting solely, to exercise such powers and discharge such duties.