

such Equipment has not theretofore been made the basis for the substitution and delivery of any Bonds or General Mortgage Bonds or the withdrawal of cash held by the Corporate Trustee of the Mortgage under any provision thereof or by the corporate trustee of the General Mortgage under any provision thereof. The lien of the Mortgage shall attach to the right, title and interest of the Company then or thereafter existing in such Equipment, subject only to such Equipment Obligation.

(c) Nothing in the Mortgage, express or implied, is intended or shall be construed to limit the right or power of the Company, which is hereby expressly reserved, to use and apply any of its materials and supplies in the routine maintenance and repair of railroad equipment, whether owned by the Company or by any other railroad, after one or more Defaults of Default enumerated in Section 2 of Article XV hereof shall have occurred and be continuing.

(f) Nothing in the Mortgage is intended or shall be construed to require the deposit with the Corporate Trustee of any securities, or of any instruments of the character referred to in granting clauses Fourth and Tenth, except such securities and instruments as are by the terms of the Mortgage specifically required to be so deposited.

To HAVE AND TO HOLD the premises, railroads, railroad property, appurtenances, rights, privileges, franchises, estates, leaseholds, securities and other property, real, personal and mixed, hereby granted, bargained, sold, conveyed, released, confirmed, mortgaged, pledged, assigned, transferred or set over, or intended so to be, or which may in any manner become subject to the lien of the Mortgage by indentures supplemental hereto or otherwise (all of which property at any given time subject to the lien of the Mortgage, whether by the terms of the Mortgage, including the after-acquired property clauses thereof, or by subsequent conveyance, delivery or

(2) The prior rights and lien of the First Mortgage of Chicago and Memphis Railroad Company to Girard Life Insurance, Annuity and Trust Company of Philadelphia (now Girard Trust Company), as trustee, dated January 2, 1889; and

(3) All and singular the other matters hereinabove set forth in the granting clauses hereof and to Permitted Encumbrances defined in Article I but only to the extent that the same shall constitute a prior lien or charge of record against any part of the mortgaged property.

BUT IN TRUST, NEVERTHELESS, upon the terms and conditions of the Mortgage, for the equal and proportionate benefit and security (except as provided in Section 1 of Article XV) of all present and future holders of Bonds and coupons, according to their tenor, purpose and effect, without preference, priority or distinction (except as provided in Section 1 of Article XV) as to lien or otherwise so that (except as aforesaid) each and every Bond and coupon shall have the same right, lien and privilege under the Mortgage and shall be equally and ratably secured thereby in accordance with the provisions of the Mortgage;

AND IT IS HEREBY COVENANTED AND DECLARED that all of the Bonds and coupons for interest thereon, if any, are to be issued, authenticated and delivered, and that the mortgaged property is to be held and disposed of by the Trustee, upon and subject to the following covenants, conditions, uses and trusts:

pledge to the Trustee, or either of them, or otherwise, herein sometimes referred to as the "mortgaged property";

SUBJECT, HOWEVER, to the following:

(1) The prior rights, charges, lien and title under the following Equipment Obligations assumed by the Company in accordance with the Plan and the orders of the Court:

(a) Equipment Trust Agreement and Lease, Series S, dated February 1, 1940, between the Trustors of the Estate of The Chicago, Rock Island and Pacific Railway Company and The First National Bank of Chicago, Trustee, final semi-annual installment of principal due February 1, 1950;

(b) Equipment Trust Agreement and Lease, Series T, dated November 1, 1940, between the Trustors of the Estate of The Chicago, Rock Island and Pacific Railway Company and Chicago Title and Trust Company, Trustee, final installment of principal due May 1, 1949;

(c) Conditional Sale Agreement, dated June 1, 1944, between the Trustors of the Estate of The Chicago, Rock Island and Pacific Railway Company and The First National Bank of Chicago, Trustee, by assignment from Rock Island Improvement Company, vendor and prior owner, final monthly installment of principal due July 1, 1954;

(d) Conditional Sale Agreement, dated September 1, 1945, between the Trustors of the Estate of The Chicago, Rock Island and Pacific Railway Company and The First National Bank of Chicago, Trustee, by assignment from Rock Island Improvement Company, vendor and prior owner, final monthly installment of principal due September 1, 1955;

under which Equipment Obligations the unpaid balance of outstanding obligations as of the close of business on December 31, 1947, aggregated \$1,082,040 in principal amount;

ARTICLE I

DEFINITIONS

The terms defined in this Article I (unless otherwise expressly provided or unless the context otherwise requires) shall have the following meanings, respectively:

"Additions and Betterments" shall mean improvements, extensions and betterments to Fixed Property and additional Fixed Property, of the Company becoming subject to the lien of the Mortgage and acquired or constructed by the Company after the date of the execution and delivery of the Mortgage, the cost of which, at the time of acquisition or construction, was properly chargeable to Road and Equipment Account, except:

(a) Purchased Property; and

(b) Such improvements, extensions, betterments and additional Fixed Property as:

(1) Were acquired or constructed through grants or donations or expenditures from the Capital Fund or the application of funds pursuant to Section 24 of Article VIII or the application of funds made available by charges for operating expenses on account of service losses on nondepreciable mortgaged property retired and replaced; or

(2) Had a life expectancy of less than 25 years when acquired or constructed by the Company; or

(3) Are subject to any Prior Lien.

"Application" shall mean a letter or other instrument in writing dated not more than 60 days prior to its delivery to the Corporate Trustee and signed by the President or Vice President of the Company and by either (a) the Secretary or an Assistant Secretary of the Company, or (b) the Chief Accounting Officer of the Company, setting forth briefly the nature of the matter or action covered by the application.