

1543

Certified True Copy

CERTIFICATE TO BE A TRUE AND
CORRECT COPY.

MANUFACTURERS HANOVER TRUST COMPANY, Trustee

By [Signature]
P. F. [Name] Assistant Secretary

First Mortgage

\$125,000,000

SPOKANE, PORTLAND AND SEATTLE
RAILWAY COMPANY

TO

CENTRAL TRUST COMPANY OF NEW YORK

March 1, 1911.

RECORDATION NO. 0123
DEC 15 1971 - 1 15 PM
INDEXED & Recorded
INTERSTATE COMMERCE COMMISSION

An Indenture made this first day of March in the year one thousand nine hundred and eleven, between SPOKANE, PORTLAND AND SEATTLE RAILWAY COMPANY, a corporation of the State of Washington, (hereinafter called the Railway Company), party of the first part, and CENTRAL TRUST COMPANY OF NEW YORK, a corporation of the State of New York, (hereinafter called the Trustee), party of the second part:

WHEREAS, at a meeting of the board of trustees of the Railway Company, (the statutes of Washington provide that the concerns of a railway company shall be managed by a "board of trustees") duly called and held in the City of Vancouver, Washington, on the 8th day of March, in the year one thousand nine hundred and eleven, a quorum being present, the draft of a mortgage or deed of trust in the form of this indenture was submitted in writing, and thereupon resolutions in the following words were duly and unanimously adopted, viz.:

Resolved, That the President or a Vice-President and the Secretary or an Assistant Secretary of this Company be, and they hereby are, authorized and directed to execute, acknowledge and deliver for and on behalf of this Company, in its name and under its corporate seal to Central Trust Company of New York, a corporation of the State of New York, as Trustee, a mortgage or deed of trust, to be known as the 'First Mortgage' of this Company, substantially in the form of the draft thereof now submitted to this Board, covering the lines of railway, branches, appurtenances, equipment and other railroad property, stocks, bonds, contracts, interests, franchises, rights, privileges and immunities of this Company as in said mortgage or deed of trust described, to secure an issue of bonds of this Company to be called 'First Mortgage Gold Bonds,' the aggregate face amount of the principal of which bonds at any time outstanding

shall not exceed \$125,000,000 nor shall it exceed at any time the amount authorized by the laws of the State of Washington, then in force, the principal of such bonds to be payable in gold coin of the United States of America, of or equal to the present standard of weight and fineness, at the office or agency of this Company in the City of New York, on the first day of March, 1961, with interest thereon from the first day of March, 1911, at such rate, not to exceed five per centum per annum, as the board of trustees shall from time to time determine and specify in the bonds from time to time issued, payable in like gold coin, semi-annually at the said office or agency on the first days of March and September in each year, both the principal and interest of said bonds to be payable without deduction for any tax or taxes imposed by the United States, or any state or municipality thereof, which this Company may be required to pay or to retain therefrom, under any present or future law; and that such bonds shall be coupon bonds with provision for registration as to principal, and registered bonds without coupons, and shall be substantially of the form and tenor of the bonds set forth in said mortgage or deed of trust now submitted.

“Resolved further, that such First Mortgage Gold Bonds of this Company shall be executed, issued, certified and delivered in the manner and upon the terms and conditions and for the purposes set forth in such First Mortgage of this Company, now submitted;” and

WHEREAS, at a meeting of the stockholders of the Railway Company, duly called and held in the City of Vancouver, Washington, on the 8th day of March, in the year one thousand nine hundred and eleven, the foregoing resolutions were duly ratified and confirmed; and

WHEREAS, the forms of the coupon bonds and of the coupons to be attached thereunto, and of the registered bonds and of the certificate for authentication of said bonds are to be severally and respectively substantially as follows, to-wit:

(FORM OF COUPON BOND.)

No.

\$1,000.

UNITED STATES OF AMERICA.

SPOKANE, PORTLAND AND SEATTLE RAILWAY
COMPANY.

FIRST MORTGAGE GOLD BOND.

Spokane, Portland and Seattle Railway Company (hereinafter called the Railway Company), for value received, hereby promises to pay to bearer, or, if registered, to the registered holder of this bond, one thousand dollars, in gold coin of the United States of America of or equal to the present standard of weight and fineness, on the first day of March, in the year 1961, at its office or agency in the City of New York, and to pay interest thereon from March 1, 1911, at the rate of per cent. per annum, at such office or agency in like gold coin, semi-annually, on the first day of March and the first day of September in each year, upon presentation and surrender of the interest coupons hereto annexed as they severally mature.

Both the principal and interest of this bond are payable without deduction for any tax or taxes of the United States, or of any state, county or municipality therein, which the Railway Company may be required to pay or to retain therefrom under any present or future law.

This bond is one of a duly authorized series of coupon bonds and registered bonds of the Railway Company known as its First Mortgage Gold Bonds, limited to the principal amount of \$125,000,000 at any one time outstanding, and all issued and to be issued under and equally secured by a mortgage or deed of trust dated March 1, A. D. 1911, executed by the Railway Company to the Central Trust Company of New York, as Trustee. For a description of the properties and franchises mortgaged and pledged, the nature and extent of the security, the

rights of holders of the bonds, and the terms and conditions upon which the bonds are, and are to be, issued and secured, reference is made to said mortgage or deed of trust.

The bonds of this issue are subject to redemption at the option of the Railway Company at a premium of 5 per cent. and accrued interest, on any interest day subsequent to March 1, 1931, in manner as provided in said mortgage or deed of trust.

This bond shall pass by delivery unless registered in the name of the owner on the books of the Railway Company, such registry being noted on the bond by the Railway Company. After such registry, no transfer shall be valid unless made on said books by the registered holder in person or by his attorney duly authorized in writing, and similarly noted on the bond, but the same may be discharged from registry by a transfer thereon to bearer, and thereupon transferability by delivery shall be restored; but this bond may again from time to time be registered or transferred to bearer as before. Such registration, however, shall not affect the negotiability of the coupons, which shall continue to be transferable by delivery.

The coupon bonds are for \$1,000 each, but the Railway Company, in its discretion, from time to time, may issue coupon bonds for \$500 each or for \$100 each, as provided in said mortgage or deed of trust.

The holder of any coupon bond for \$1,000, at his option, may surrender the same for cancellation with all unmatured coupons thereto appertaining in exchange for a registered bond without coupons and registered bonds of the denomination of \$1,000, or any multiple thereof, may be exchanged for coupon bonds, as provided in said mortgage or deed of trust.

This bond shall not become valid or obligatory for any purpose unless and until it shall have been authenticated by the certificate hereon endorsed of the Trustee under said mortgage or deed of trust.

IN WITNESS WHEREOF, Spokane, Portland and Seattle Railway Company has caused these presents to be signed by its President or one of its Vice-Presidents, and its corporate seal to be hereunto affixed and to be attested by its Secretary, or an Assistant Secretary, and coupons for said interest with the engraved signature of its Treasurer,

Now, Therefore, this Indenture Witnesseth:

That in order to secure the payment of the principal and interest of all such bonds at any time issued and outstanding under this indenture, according to their tenor and effect, and the performance of all the covenants and conditions herein contained, and to declare the terms and conditions upon which such bonds are issued and received, the Railway Company, party of the first part, in consideration of the premises and of the purchase and acceptance of such bonds by the holders thereof, and of the sum of one dollar to it duly paid by the Trustee at or before the usealing and delivery of these presents, the receipt whereof is hereby acknowledged, has executed and delivered these presents, and has granted, bargained, sold, aliened, remised, released, conveyed, confirmed, assigned, transferred and set over, and by these presents does grant, bargain, sell, alien, remise, release, convey, confirm, assign, transfer and set over unto the Trustee, the party of the second part, its successors and assigns, forever:

FIRST. The following described lines of railway owned by the Railway Company:

1. Main lines of railway extending:

(a) From a point of connection with the main line of railway of the Great Northern Railway Company near the westerly city limits of Spokane, Washington, (which point is in the northwest quarter of Section 14 in Township 25 North of Range 42 East of the Willamette Meridian), by way of Lamont and Washtucna to Farrington in the said state; thence, along the north bank of the Snake River, to a connection with the main line of railway of the Northern Pacific Railway Company near the east end of the Northern Pacific Railway Company's bridge across the Columbia River at Pasco, Washington146.56 miles.

(b) From a point of connection with the main line of railway of the Northern Pacific Railway Company, near the west end of the Northern Pacific Railway Company's said bridge across the Columbia River opposite Pasco, Washington, along the north bank of the Columbia River, to Vancouver, Washington; thence across the Columbia and Willamette rivers to the southerly end of the approach to the bridge across the Willamette River near Portland, Oregon225.22 miles.

It is understood that from Vancouver to the southerly end of the Willamette river bridge approach (including bridges, approaches, tracks and appurtenances, as more particularly described in trackage contract between the Railway Company and the Northern Pacific Railway Company, hereinafter included as part of the mortgaged premises under heading Fifth of the granting clause of this indenture) the line is owned, an undivided two-thirds by the Railway Company and an undivided one-third by the Northern Pacific Railway Company; and only the interest of the Railway Company in the said line from Vancouver to the southerly end of the Willamette river bridge approach is covered by this indenture.

(c) From a point of connection with the Northern Pacific Railway Company's track at or near 21st Street in Portland, Oregon, to the north line of Hoyt Street in Portland, Oregon 1.24 miles.

(d) From a point of connection with the Railway Company's main line near Marshall, Washington, to a point of connection with the Northern Pacific Railway Company's line at Marshall, Washington 0.82 miles.

(c) From a point of connection with the Northern Pacific Railway Company's line near Goble, Oregon, by way of Astoria and Warrenton in the said state, to Holladay, Oregon 79.60 miles.

2. Branch lines of railway extending:

(a) From Lyle, Washington, to Goldendale, Washington 42.25 miles.

(b) From Warrenton, Oregon, to Fort Stevens, Oregon, on the Pacific Ocean 3.50 miles.

Total mileage main and branch lines..499.19 miles.

SECOND. Appurtenances of the above-described lines of railway, but as to the said line from Vancouver, Washington, to the southerly end of the Willamette river bridge approach, only an undivided two-thirds interest therein.

All telegraph and telephone lines, including all poles, wires and instruments, all rights of way, station and depot grounds, all tunnels, roadbeds, spurs, double tracks, turnouts, switches, sidings and turntables, all superstructures, bridges, stringers, ties, rails, frogs, chairs, bolts, splices and other railroad appurtenances, all terminals and terminal properties, (especially including all terminals and terminal properties in the City of Portland, Oregon), docks, wharves, ferries, landings and boats, all station houses, warehouses, freight houses, engine houses, car houses, water stations, water tanks, water supply, machine shops and other structures, all engines, tenders, cars and other rolling stock and equipment, all furniture, machinery, tools, implements, materials and supplies, and all other property, real, personal and mixed, appurtenant to any of said lines of railway

and branches above described, and all tolls, revenues, earnings, income, rents, issues and profits thereof, and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the Railway Company of, in and to the said railways, branches, premises and property, and every part and parcel thereof, with the appurtenances and the franchises appertaining or hereafter to appertain thereto.

THIRD. Any and all lines of railway, extensions and branches, telegraph and telephone lines and lines of water transportation, including the franchises appurtenant thereto, and any and all terminal properties, depots, shops, machinery, tools, docks, wharves, ferries, landings, boats, rolling stock and other equipment, and any and all bonds, stocks and other property of every kind or description (notwithstanding that the same are not now particularly set forth in this indenture), which, from time to time, in the manner hereinafter provided, shall be purchased, acquired or constructed by the use of any bonds secured by this indenture; together with all and singular the franchises, rights and privileges appurtenant to or used in connection with such lines of railway, extensions, branches, telegraph and telephone lines and lines of water transportation, and any and all the rents, issues, profits, tolls and other income thereof.

FOURTH. Any and all additions, improvements and betterments now or hereafter acquired or constructed to or upon or in connection with any and all lines of railway, extensions, branches, telegraph and telephone lines and lines of water transportation now or at any time hereafter subject to this indenture, any and all property, real or personal, of every kind and description, acquired for use upon, or in connection with, or for the purpose of, such lines of railway, extensions or branches, telegraph and telephone lines and lines of water

Now, Therefore, this Indenture Witnesseth:

That in order to secure the payment of the principal and interest of all such bonds at any time issued and outstanding under this indenture, according to their tenor and effect, and the performance of all the covenants and conditions herein contained, and to declare the terms and conditions upon which such bonds are issued and received, the Railway Company, party of the first part, in consideration of the premises and of the purchase and acceptance of such bonds by the holders thereof, and of the sum of one dollar to it duly paid by the Trustee at or before the usealing and delivery of these presents, the receipt whereof is hereby acknowledged, has executed and delivered these presents, and has granted, bargained, sold, aliened, remised, released, conveyed, confirmed, assigned, transferred and set over, and by these presents does grant, bargain, sell, alien, remise, release, convey, confirm, assign, transfer and set over unto the Trustee, the party of the second part, its successors and assigns, forever:

FIRST. The following described lines of railway owned by the Railway Company:

1. Main lines of railway extending:

(a) From a point of connection with the main line of railway of the Great Northern Railway Company near the westerly city limits of Spokane, Washington, (which point is in the northwest quarter of Section 14 in Township 25 North of Range 42 East of the Willamette Meridian), by way of Lamont and Washtucna to Farrington in the said state; thence, along the north bank of the Snake River, to a connection with the main line of railway of the Northern Pacific Railway Company near the east end of the Northern Pacific Railway Company's bridge across the Columbia River at Pasco, Washington146.56 miles.

(b) From a point of connection with the main line of railway of the Northern Pacific Railway Company, near the west end of the Northern Pacific Railway Company's said bridge across the Columbia River opposite Pasco, Washington, along the north bank of the Columbia River, to Vancouver, Washington; thence across the Columbia and Willamette rivers to the southerly end of the approach to the bridge across the Willamette River near Portland, Oregon225.22 miles.

It is understood that from Vancouver to the southerly end of the Willamette river bridge approach (including bridges, approaches, tracks and appurtenances, as more particularly described in trackage contract between the Railway Company and the Northern Pacific Railway Company, hereinafter included as part of the mortgaged premises under heading Fifth of the granting clause of this indenture) the line is owned, an undivided two-thirds by the Railway Company and an undivided one-third by the Northern Pacific Railway Company; and only the interest of the Railway Company in the said line from Vancouver to the southerly end of the Willamette river bridge approach is covered by this indenture.

(c) From a point of connection with the Northern Pacific Railway Company's track at or near 21st Street in Portland, Oregon, to the north line of Hoyt Street in Portland, Oregon 1.24 miles.

(d) From a point of connection with the Railway Company's main line near Marshall, Washington, to a point of connection with the Northern Pacific Railway Company's line at Marshall, Washington 0.82 miles.

(c) From a point of connection with the Northern Pacific Railway Company's line near Goble, Oregon, by way of Astoria and Warrenton in the said state, to Holladay, Oregon 79.60 miles.

2. Branch lines of railway extending:

(a) From Lyle, Washington, to Goldendale, Washington 42.25 miles.

(b) From Warrenton, Oregon, to Fort Stevens, Oregon, on the Pacific Ocean 3.50 miles.

Total mileage main and branch lines..499.19 miles.

SECOND. Appurtenances of the above-described lines of railway, but as to the said line from Vancouver, Washington, to the southerly end of the Willamette river bridge approach, only an undivided two-thirds interest therein.

All telegraph and telephone lines, including all poles, wires and instruments, all rights of way, station and depot grounds, all tunnels, roadbeds, spurs, double tracks, turnouts, switches, sidings and turntables, all superstructures, bridges, stringers, ties, rails, frogs, chairs, bolts, splices and other railroad appurtenances, all terminals and terminal properties, (especially including all terminals and terminal properties in the City of Portland, Oregon), docks, wharves, ferries, landings and boats, all station houses, warehouses, freight houses, engine houses, car houses, water stations, water tanks, water supply, machine shops and other structures, all engines, tenders, cars and other rolling stock and equipment, all furniture, machinery, tools, implements, materials and supplies, and all other property, real, personal and mixed, appurtenant to any of said lines of railway

and branches above described, and all tolls, revenues, earnings, income, rents, issues and profits thereof, and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the Railway Company of, in and to the said railways, branches, premises and property, and every part and parcel thereof, with the appurtenances and the franchises appertaining or hereafter to appertain thereto.

THIRD. Any and all lines of railway, extensions and branches, telegraph and telephone lines and lines of water transportation, including the franchises appurtenant thereto, and any and all terminal properties, depots, shops, machinery, tools, docks, wharves, ferries, landings, boats, rolling stock and other equipment, and any and all bonds, stocks and other property of every kind or description (notwithstanding that the same are not now particularly set forth in this indenture), which, from time to time, in the manner hereinafter provided, shall be purchased, acquired or constructed by the use of any bonds secured by this indenture; together with all and singular the franchises, rights and privileges appurtenant to or used in connection with such lines of railway, extensions, branches, telegraph and telephone lines and lines of water transportation, and any and all the rents, issues, profits, tolls and other income thereof.

FOURTH. Any and all additions, improvements and betterments now or hereafter acquired or constructed to or upon or in connection with any and all lines of railway, extensions, branches, telegraph and telephone lines and lines of water transportation now or at any time hereafter subject to this indenture, any and all property, real or personal, of every kind and description, acquired for use upon, or in connection with, or for the purpose of, such lines of railway, extensions or branches, telegraph and telephone lines and lines of water

ARTICLE ONE.

FORM, EXECUTION, DELIVERY, REGISTRY AND EXCHANGE OF
BONDS.

SECTION 1. From time to time the first mortgage gold bonds shall be executed in the name and on behalf of the Railway Company and under its corporate seal by the President, or any Vice President, and the Secretary, or any Assistant Secretary, of the Railway Company and shall be delivered to the Trustee for authentication by it, and thereupon as provided in Article Two hereof, and not otherwise, the Trustee shall authenticate and deliver the same. At the option of the Railway Company, from time to time, any such bonds may be executed, authenticated and delivered originally either as coupon bonds or as registered bonds.

The aggregate amount of all bonds which may be issued and outstanding under this indenture at any one time, shall not exceed in any event the sum of \$125,000,000 face amount of the principal thereof nor shall it exceed at any time the amount authorized by the laws of the State of Washington, then in force. All such bonds shall bear interest at such rate, not exceeding five per cent. per annum, as from time to time shall be fixed and determined by the board of trustees or executive committee of the Railway Company and stated in the resolution of the board or executive committee calling for the authentication and delivery of bonds by the Trustee, and such interest shall be payable semi-annually on the first day of March and the first day of September in each year.

In case the officers who shall have signed and sealed

any such bonds shall cease to be such officers of the Railway Company before the bonds so signed and sealed shall have been actually authenticated and delivered by the Trustee, such bonds nevertheless may be adopted by the Railway Company and be issued, authenticated and delivered as though the persons who signed and sealed such bonds had not ceased to be officers of the Railway Company. The coupons to be attached to such bonds shall be authenticated by the engraved signature of the present treasurer or assistant treasurer or of any future treasurer or assistant treasurer of the Railway Company, and the Railway Company may adopt and use for such purpose the engraved signature of any person who shall have been such treasurer or assistant treasurer notwithstanding the fact that he may have ceased to be such treasurer or assistant treasurer at the time when such bonds shall be actually authenticated and delivered. Only such bonds as shall bear thereon endorsed an authentication substantially in the form hereinbefore recited, executed by the Trustee, shall be secured by this indenture or entitled to any lien, right or benefit hereunder; and such authentication by the Trustee upon any such bond shall be conclusive evidence that the bond so authenticated has been duly issued hereunder and that the holder is entitled to the benefit of the trust hereby created. Before authenticating or delivering any coupon bond all coupons thereof then matured, including coupon No. 1 and all others numbered consecutively upwards, shall be cut off, canceled and thereafter held by the Trustee until destroyed upon demand of the Railway Company. All such coupons, upon demand of the Railway Company, from time to time shall be destroyed by and in the presence of the Trustee and a representative

of the Railway Company, who, thereupon, shall jointly execute in triplicate written certificates of the destruction thereof accurately describing and identifying therein the coupons so destroyed, one of which certificates, in each case, shall be kept and preserved by the Trustee and the other two whereof by the Railway Company. The Trustee shall not authenticate or deliver any registered bond bearing interest from a date more than six months prior to such authentication. On request of the Railway Company, but within the limitations hereinafter prescribed, first mortgage gold bonds shall be authenticated and delivered hereunder in advance of the registration or recording of this indenture, but the Railway Company with all convenient speed shall cause this indenture to be recorded.

SEC. 2. The Railway Company will keep at an office or agency to be maintained by it in the Borough of Manhattan in the City of New York, or at some bank or trust company in said Borough a sufficient register or registers of the first mortgage gold bonds which, at all reasonable times, shall be open for inspection by the Trustee; and, upon presentation for such purpose, the Railway Company, under such reasonable regulations as it may prescribe, will register therein any first mortgage gold bonds. The holder of any first mortgage gold coupon bond may have the ownership thereof registered on said books, such registry being noted on the bond, after which no transfer shall be valid unless made on said books by the registered holder in person or by his attorney, duly authorized in writing, and noted on the bond; but the same may be discharged from registry by being transferred in like manner to bearer, after which it shall be transferable by delivery,

but such bond may again, from time to time, be registered or transferred to bearer as before. Such registration shall not affect the negotiability of the coupons belonging to any coupon bond; but every such coupon shall continue to pass by delivery and shall remain payable to bearer.

SEC. 3. The first mortgage gold bonds shall be issued in series and the bonds of each series shall be distinctively designated in manner as prescribed by resolution of the board of trustees or executive committee of the Railway Company. All bonds bearing the same rate of interest shall be of the same series but may be of different denominations, as hereinafter provided.

Coupon bonds shall be for \$1,000 each, but the Railway Company, in its discretion, may, from time to time, issue coupon bonds for \$500 each or for \$100 each. The serial numbers of all bonds of each of the last-mentioned denominations, if and as issued, shall immediately be preceded by the prefix letter D, in the case of \$500 bonds, and by the prefix letter C, in the case of \$100 bonds. They shall be identical in all respects with the form of coupon bond for \$1,000 hereinbefore set out, except as to the stated face amount thereof and of the coupons thereto attached. Coupon bonds of the smaller denominations, and all of the same series, may be exchanged for a coupon bond or bonds of the denomination of \$1,000 of a like principal amount and of the same said series. Whenever any such coupon bonds of the smaller denominations, and all of the same series, having thereto attached all unmatured coupons, shall be surrendered for exchange for a coupon bond or bonds of the denomination of \$1,000, the Railway Company shall issue and the Trustee shall authenticate and deliver in exchange for the same, in like principal

"mortgaged and pledged premises" shall include all railways, leasehold interests, equipment, stocks, bonds and other properties conveyed or agreed to be conveyed by the granting clauses of this indenture, or otherwise becoming subject thereto.

ARTICLE FIVE.

CONTROL OF STOCKS AND BONDS MORTGAGED.

SECTION 1. When and as any bonds or obligations or the certificates for any shares of stock which the Railway Company by this indenture has assigned or agreed to assign and transfer to the Trustee, shall come into the possession of the Railway Company or under its control, the Railway Company forthwith shall deliver the same to the Trustee, together with proper instruments of assignment and transfer thereof to the Trustee or to its nominee or nominees.

SEC. 2. Whenever the Railway Company:

(a) shall own and hold, directly subject to the lien of this indenture, all the property, whether railways or bonds or shares of capital stock, conveyed, mortgaged, transferred or pledged to secure any series of bonds, all, or part of which, shall have been acquired by the Railway Company by the use of bonds issued under Section 2 of Article Two of this indenture, and all of which series of bonds (except lost or destroyed bonds, for which satisfactory indemnity may have been given,) shall then be pledged with the Trustee under and subject to the lien of this indenture; or

(b) shall deliver to the Trustee such conveyance or conveyances as, in the judgment of the Trustee, shall be sufficient to subject directly to the lien of this indenture all the property, whether railways or bonds or shares of capital stock, conveyed, mortgaged, transferred or pledged to secure any series of bonds, all or part of which, shall have been acquired by the Railway Company by the use of bonds issued under Section 2 of Article Two of this indenture, and all of which series of bonds (except lost or destroyed bonds, for which satisfactory indemnity may have been given,) shall then be pledged with the Trustee under and subject to the lien of this indenture;

the Trustee, at the request of the Railway Company, shall cancel all bonds of such series, so pledged with the Trustee, and shall take all steps desirable or proper to cause the mortgage, trust deed or trust agreement securing the same to be canceled or discharged of record, or the mortgaged or pledged premises and property embraced therein to be released from such mortgage, trust deed or trust agreement, and thereupon all bonds, shares of capital stock or other personal property mortgaged or pledged thereunder, shall be delivered to and held by the Trustee as further security for the bonds issued hereunder.

SEC. 3. The Trustee is authorized in its discretion (1) to cause to be registered in its name as Trustee, or in the name of its nominee or nominees, any and all coupon bonds which at any time hereafter may be received by it under and in accordance with any of the provisions of this indenture, or (2) to cause the same to be exchanged for registered bonds without coupons of any denomination, or (3) to cause any such bonds to be stamped "Not negotiable. Held by Central Trust Company of

ARTICLE ONE.

FORM, EXECUTION, DELIVERY, REGISTRY AND EXCHANGE OF
BONDS.

SECTION 1. From time to time the first mortgage gold bonds shall be executed in the name and on behalf of the Railway Company and under its corporate seal by the President, or any Vice President, and the Secretary, or any Assistant Secretary, of the Railway Company and shall be delivered to the Trustee for authentication by it, and thereupon as provided in Article Two hereof, and not otherwise, the Trustee shall authenticate and deliver the same. At the option of the Railway Company, from time to time, any such bonds may be executed, authenticated and delivered originally either as coupon bonds or as registered bonds.

The aggregate amount of all bonds which may be issued and outstanding under this indenture at any one time, shall not exceed in any event the sum of \$125,000,000 face amount of the principal thereof nor shall it exceed at any time the amount authorized by the laws of the State of Washington, then in force. All such bonds shall bear interest at such rate, not exceeding five per cent. per annum, as from time to time shall be fixed and determined by the board of trustees or executive committee of the Railway Company and stated in the resolution of the board or executive committee calling for the authentication and delivery of bonds by the Trustee, and such interest shall be payable semi-annually on the first day of March and the first day of September in each year.

In case the officers who shall have signed and sealed

any such bonds shall cease to be such officers of the Railway Company before the bonds so signed and sealed shall have been actually authenticated and delivered by the Trustee, such bonds nevertheless may be adopted by the Railway Company and be issued, authenticated and delivered as though the persons who signed and sealed such bonds had not ceased to be officers of the Railway Company. The coupons to be attached to such bonds shall be authenticated by the engraved signature of the present treasurer or assistant treasurer or of any future treasurer or assistant treasurer of the Railway Company, and the Railway Company may adopt and use for such purpose the engraved signature of any person who shall have been such treasurer or assistant treasurer notwithstanding the fact that he may have ceased to be such treasurer or assistant treasurer at the time when such bonds shall be actually authenticated and delivered. Only such bonds as shall bear thereon endorsed an authentication substantially in the form hereinbefore recited, executed by the Trustee, shall be secured by this indenture or entitled to any lien, right or benefit hereunder; and such authentication by the Trustee upon any such bond shall be conclusive evidence that the bond so authenticated has been duly issued hereunder and that the holder is entitled to the benefit of the trust hereby created. Before authenticating or delivering any coupon bond all coupons thereof then matured, including coupon No. 1 and all others numbered consecutively upwards, shall be cut off, canceled and thereafter held by the Trustee until destroyed upon demand of the Railway Company. All such coupons, upon demand of the Railway Company, from time to time shall be destroyed by and in the presence of the Trustee and a representative

of the Railway Company, who, thereupon, shall jointly execute in triplicate written certificates of the destruction thereof accurately describing and identifying therein the coupons so destroyed, one of which certificates, in each case, shall be kept and preserved by the Trustee and the other two whereof by the Railway Company. The Trustee shall not authenticate or deliver any registered bond bearing interest from a date more than six months prior to such authentication. On request of the Railway Company, but within the limitations hereinafter prescribed, first mortgage gold bonds shall be authenticated and delivered hereunder in advance of the registration or recording of this indenture, but the Railway Company with all convenient speed shall cause this indenture to be recorded.

SEC. 2. The Railway Company will keep at an office or agency to be maintained by it in the Borough of Manhattan in the City of New York, or at some bank or trust company in said Borough a sufficient register or registers of the first mortgage gold bonds which, at all reasonable times, shall be open for inspection by the Trustee; and, upon presentation for such purpose, the Railway Company, under such reasonable regulations as it may prescribe, will register therein any first mortgage gold bonds. The holder of any first mortgage gold coupon bond may have the ownership thereof registered on said books, such registry being noted on the bond, after which no transfer shall be valid unless made on said books by the registered holder in person or by his attorney, duly authorized in writing, and noted on the bond; but the same may be discharged from registry by being transferred in like manner to bearer, after which it shall be transferable by delivery,

but such bond may again, from time to time, be registered or transferred to bearer as before. Such registration shall not affect the negotiability of the coupons belonging to any coupon bond; but every such coupon shall continue to pass by delivery and shall remain payable to bearer.

SEC. 3. The first mortgage gold bonds shall be issued in series and the bonds of each series shall be distinctively designated in manner as prescribed by resolution of the board of trustees or executive committee of the Railway Company. All bonds bearing the same rate of interest shall be of the same series but may be of different denominations, as hereinafter provided.

Coupon bonds shall be for \$1,000 each, but the Railway Company, in its discretion, may, from time to time, issue coupon bonds for \$500 each or for \$100 each. The serial numbers of all bonds of each of the last-mentioned denominations, if and as issued, shall immediately be preceded by the prefix letter D, in the case of \$500 bonds, and by the prefix letter C, in the case of \$100 bonds. They shall be identical in all respects with the form of coupon bond for \$1,000 hereinbefore set out, except as to the stated face amount thereof and of the coupons thereto attached. Coupon bonds of the smaller denominations, and all of the same series, may be exchanged for a coupon bond or bonds of the denomination of \$1,000 of a like principal amount and of the same said series. Whenever any such coupon bonds of the smaller denominations, and all of the same series, having thereto attached all unmatured coupons, shall be surrendered for exchange for a coupon bond or bonds of the denomination of \$1,000, the Railway Company shall issue and the Trustee shall authenticate and deliver in exchange for the same, in like principal

"mortgaged and pledged premises" shall include all railways, leasehold interests, equipment, stocks, bonds and other properties conveyed or agreed to be conveyed by the granting clauses of this indenture, or otherwise becoming subject thereto.

ARTICLE FIVE.

CONTROL OF STOCKS AND BONDS MORTGAGED.

SECTION 1. When and as any bonds or obligations or the certificates for any shares of stock which the Railway Company by this indenture has assigned or agreed to assign and transfer to the Trustee, shall come into the possession of the Railway Company or under its control, the Railway Company forthwith shall deliver the same to the Trustee, together with proper instruments of assignment and transfer thereof to the Trustee or to its nominee or nominees.

SEC. 2. Whenever the Railway Company:

(a) shall own and hold, directly subject to the lien of this indenture, all the property, whether railways or bonds or shares of capital stock, conveyed, mortgaged, transferred or pledged to secure any series of bonds, all, or part of which, shall have been acquired by the Railway Company by the use of bonds issued under Section 2 of Article Two of this indenture, and all of which series of bonds (except lost or destroyed bonds, for which satisfactory indemnity may have been given,) shall then be pledged with the Trustee under and subject to the lien of this indenture; or

(b) shall deliver to the Trustee such conveyance or conveyances as, in the judgment of the Trustee, shall be sufficient to subject directly to the lien of this indenture all the property, whether railways or bonds or shares of capital stock, conveyed, mortgaged, transferred or pledged to secure any series of bonds, all or part of which, shall have been acquired by the Railway Company by the use of bonds issued under Section 2 of Article Two of this indenture, and all of which series of bonds (except lost or destroyed bonds, for which satisfactory indemnity may have been given,) shall then be pledged with the Trustee under and subject to the lien of this indenture;

the Trustee, at the request of the Railway Company, shall cancel all bonds of such series, so pledged with the Trustee, and shall take all steps desirable or proper to cause the mortgage, trust deed or trust agreement securing the same to be canceled or discharged of record, or the mortgaged or pledged premises and property embraced therein to be released from such mortgage, trust deed or trust agreement, and thereupon all bonds, shares of capital stock or other personal property mortgaged or pledged thereunder, shall be delivered to and held by the Trustee as further security for the bonds issued hereunder.

SEC. 3. The Trustee is authorized in its discretion (1) to cause to be registered in its name as Trustee, or in the name of its nominee or nominees, any and all coupon bonds which at any time hereafter may be received by it under and in accordance with any of the provisions of this indenture, or (2) to cause the same to be exchanged for registered bonds without coupons of any denomination, or (3) to cause any such bonds to be stamped "Not negotiable. Held by Central Trust Company of

New York, as Trustee, under the First Mortgage of the Spokane, Portland and Seattle Railway Company, dated March 1, 1911." The Trustee shall cause to be transferred into its name, as Trustee hereunder, or into the name of its nominee or nominees, all registered bonds which shall have been delivered and assigned to it hereunder.

The Trustee at any time may transfer into its name, as Trustee hereunder, all or any shares of stock, the certificates for which shall have been pledged with and delivered to it hereunder, or in its discretion the Trustee may hold such certificates in the name of the registered holder thereof at the time of such pledge, or in the name of a nominee of the Trustee, provided that in either case the same be endorsed in blank for transfer, or be accompanied by proper instruments of assignment in blank duly executed by such registered holder.

The Trustee may do whatever may be necessary in its opinion for the purpose of maintaining, preserving, renewing or extending the corporate existence of any company, any part of whose stock shall be held by the Trustee hereunder, and for such purposes, from time to time, may sell, assign, transfer and deliver so many shares of the stock of the several companies as may be necessary to qualify persons to act as directors of, or in any other official relation to, said companies. Whenever the Railway Company shall in writing so request (which request shall state that the Railway Company has no shares for that purpose under its control other than shares held under this indenture), the Trustee shall assign and transfer to persons designated by the Railway Company, a sufficient number of any shares that then shall be held by the Trustee hereunder, to qualify

such persons to act as directors of, or in any official relation to, the several companies which issued such shares; provided, however, that under this provision no transfer shall be made which shall reduce the amount of stock in any such company held by the Trustee; so as to render it less than a controlling interest in such stock; and in every case the Trustee shall make such arrangements as it shall deem necessary for the protection of the trust hereunder in respect of the shares so assigned.

SEC. 4. Unless and until a receiver shall have entered into possession of the railways or some of them constituting part of the mortgaged and pledged premises; or unless and until the Trustee shall have entered into possession of said railways or some of them or a part thereof, under the powers herein granted; or unless and until there shall be a default (1) in the payment of any interest on any first mortgage gold bond or bonds at any time outstanding; or (2) in the payment of the principal of any first mortgage gold bond; or (3) in the payment of any interest on, or of the principal of, any outstanding bond secured by any mortgage or instrument of conveyance or assignment in trust at the time constituting a prior lien on the mortgaged and pledged premises, or on part thereof; or (4) in the due observance or performance of any other covenant or condition in this indenture required to be kept or performed by the Railway Company, and such last-mentioned default shall have continued for a period of six months after written notice thereof shall have been given by the Trustee to the Railway Company,—

(a) The Trustee shall not (except with the assent of the Railway Company) collect or be entitled to collect the principal or interest of any bonds, or of any

other claims or indebtedness hereafter subject to this indenture, whether at or before or after the maturity of such bonds or other claims or indebtedness, and shall not enforce any provision of the mortgages, trust deeds or other instruments under which such bonds or other obligations shall be or shall have been issued, or by which the same are secured;

(b) The Railway Company shall be entitled to receive all interest paid in respect of all such bonds or obligations and the dividends on all shares of stock which shall be subject to this indenture although the same may have been transferred to the Trustee;

(c) From time to time (subject to the covenants in respect thereof in this section contained), upon request of the Railway Company, the Trustee shall deliver to the Railway Company all coupons for such interest then in the possession of the Trustee, in order that the Railway Company may receive payment thereof for its own use, or may cause the same to be canceled; and the Trustee shall deliver to the Railway Company, suitable orders in favor of the Railway Company, or its nominee, for the payment of such interest and dividends, and the Railway Company may collect such coupons, interest and dividends (but not by any proceeding which the Trustee shall deem prejudicial to the trusts hereunder), and the Trustee upon demand shall pay over to the Railway Company all such interest and dividends which may be collected or be received by the Trustee; and

(d) The Railway Company, for its own use, shall

be entitled to demand and receive and collect (but not by any proceeding which the Trustee shall deem prejudicial to the trusts hereunder) and may release and discharge the principal and interest of all such claims or indebtedness subjected to the lien of this indenture under Section 7 of Article Four hereof, and upon request of the Railway Company the Trustee shall execute any re-assignments or releases which may be required for that purpose;

Provided, however, and hereby it is declared and agreed that except as in this indenture otherwise expressly provided,

(1) The Railway Company shall not be entitled to receive and the Trustee shall not pay over to the Railway Company the principal of any bonds or obligations subject to this indenture;

(2) The Railway Company shall not be entitled to receive and the Trustee shall not pay over any interest on any bonds, obligations, claims or indebtedness subject to this indenture or the dividends on any such shares of stock which shall have been collected or paid out of the proceeds of any sale or condemnation of the property covered by a mortgage or deed of trust or trust agreement securing such bonds or obligations or out of the proceeds of the sale of any other property of the company liable upon such bonds, obligations, claims or indebtedness in case of a dissolution or liquidation of such company; it being the intention that the Railway Company shall be entitled to receive only payments made out of the rents,

revenues, income or proceeds of operation of such properties;

(3) The Railway Company shall not sell, assign or transfer any such coupon or right to interest or dividends delivered or assigned to it, or any other such claim or indebtedness, except subject to this indenture;

(4) The Railway Company shall not collect any such coupons or interest or dividends, or any other such claims or indebtedness, by legal proceedings or by enforcement of any security therefor, except with the written assent of the Trustee, nor in any manner which the Trustee shall deem prejudicial to the trusts hereunder; and

(5) Until actually paid, released or discharged, every such coupon or right to interest or dividends, and all other such claims and indebtedness shall remain subject to the lien of this indenture.

The Trustee shall be entitled to assume that any interest received by it on any bond or other obligation, claim or indebtedness, or any dividends received on any shares of stock, is paid out of rents, revenues, income or proceeds of operation, until it is notified in writing to the contrary; and in the absence of any such written notification it shall be conclusively presumed as between the Trustee and the bondholders, that, in making any payments thereof to the Railway Company, the Trustee acted in good faith.

If any such coupons or if any evidence of any such claim or indebtedness, delivered to the Railway Company hereunder, shall not as aforesaid forthwith be paid or canceled, the Railway Company shall return the same to the Trustee,

and, in case of the payment of any such coupon, claim or indebtedness, shall, upon the demand of the Trustee, furnish satisfactory evidence of the cancellation and extinguishment thereof.

SEC. 5. In case any sum shall be paid on account of the principal of any bonds or of any obligations subject to this indenture (except claims or indebtedness subjected to the lien of this indenture under Section 7 of Article Four hereof), or in case any sum shall be paid on account of the interest on any such bonds or obligations, out of the proceeds of the sale of property covered by a mortgage or trust deed securing such bonds or obligations, or in case, upon the dissolution or liquidation of any company, any sum shall be paid upon any bonds or shares of stock or any claims against or indebtedness of such company subject to this indenture (except claims or indebtedness subjected to the lien of this indenture under Section 7 of Article Four hereof), then in any such case any such sum, unless applied on account of the purchase price of property purchased pursuant to Section 7 of this Article, shall be received by the Trustee and shall, from time to time, be paid over by the Trustee to the Railway Company to reimburse it for expenditures by it made for any purpose for which bonds or their proceeds may be used under Section 3 of Article Two hereof, upon certificates of such expenditures, signed by the President or a Vice-President or Chief Engineer and by the Comptroller or Auditor or Treasurer of the Railway Company, and otherwise subject to the provisions and restrictions of said section. Such certificates shall be in the form re-

quired by Section 3 of Article Two hereof and shall be full protection to the Trustee for its action on the faith thereof.

SEC. 6. Unless and until some one of the events described in the first paragraph of Section 4 of this Article Five shall have happened, the Railway Company shall have the right to vote upon all shares of stock subject to this indenture for all purposes not contrary to its covenants herein contained or otherwise inconsistent with the provisions or purposes of this indenture, and with the same force and effect as though such shares were not subject to this indenture; and from time to time, upon demand of the Railway Company, the Trustee forthwith shall execute and deliver, or shall cause to be executed and delivered, to the Railway Company, or to its nominees, suitable powers of attorney or proxies to vote upon any shares of stock which shall have been transferred to the Trustee or to its nominees. Specifically, but without limitation of the general powers in this section or elsewhere herein reserved to the Railway Company, or to the owner or owners of any shares of stock pledged hereunder, the Railway Company shall have the right so to vote all shares of stock pledged hereunder in favor of the creation by any company of whose capital stock the greater part shall be pledged hereunder, of mortgages or other liens or charges, upon any additional property subsequent to the date of this indenture acquired by any such company. A certificate signed by the President or a Vice-President or the Chief Engineer and by the Comptroller or Auditor or Treasurer of the Railway Company, specifying such additional property acquired by any such company, shall be received by the Trustee as conclusive evidence of the truth of the state-

ments therein set forth, and shall be full warrant and protection to the Trustee for its action on the faith thereof.

SEC. 7. In case default shall be made in the payment of the principal or interest of any bonds or obligations which shall have been delivered to and shall be held by the Trustee hereunder, or of any other bonds then secured by the same mortgage or deed of trust as such bonds held by the Trustee, then, and in any such case, if the Trustee shall hold more than ninety per cent. in amount of the entire issue of such bonds or obligations in default, the Trustee, without prejudice, however, to its right to claim a default under this indenture, or to assert any right consequent upon such default, shall upon the written request of the Railway Company (the Railway Company not then being in default under this indenture), and, if required by the Trustee hereunder, upon receiving reasonable indemnity, and in other cases upon such written request it may, in its discretion, cause proper proceedings to be instituted and prosecuted in some court of competent jurisdiction to foreclose or enforce the mortgage, or trust, or charge, by which such bonds or obligations in default are secured. In case of the happening of any of the events hereinafter denominated events of default, or in case the Trustee shall have entered or shall have elected to enter into possession of the railways or some of them constituting part of the mortgaged and pledged premises, either under the power herein conferred, or by the voluntary action of the Railway Company, then, and in any such case, the Trustee, in its discretion, may institute such proceedings without such written request.

In case (1) at any time any company of whose capital

stock the greater part shall be held by the Trustee subject to this indenture as a first lien thereon, shall be dissolved or liquidated, or in case (2) all or any property of any such company shall be sold at any judicial or other sale, or in case (3) any property covered by a mortgage securing any bonds, or subject to any charge or trust for the payment of any other obligations, held by the Trustee subject to this indenture as a first lien thereon, shall be sold upon foreclosure of such mortgage, or by enforcement of such charge or trust,—then in any such event, if the property of such dissolved or liquidated company, or the property sold, can be acquired by crediting on the bonds, obligations, claims, indebtedness, or stock, held by the Trustee hereunder, any sum accruing or to be received thereon out of the proceeds of such property, and by paying not more than ten per cent. of the price of such property in cash (or more than ten per cent., if the holders of a majority in amount of the first mortgage gold bonds shall so request), the Trustee in its discretion may, and, if requested in writing by the Railway Company or by the holders of a majority in amount of the first mortgage gold bonds and provided with the amount of cash necessary therefor (whether such amount be more or less than ten per cent. of the price of such property), in every case shall, purchase or cause to be purchased, or permit the Railway Company to purchase, such property, either in the name or on behalf of the Trustee or of the Railway Company, or by purchasing trustees, as the Trustee may determine, and shall use, or permit the Railway Company to use, such bonds, obligations, claims, indebtedness and stock, so far as may be, to make payment for such property; and in case of any such purchase the Trustee shall take such steps

as it may deem proper to cause such property to be vested either in the Railway Company, subject to this indenture, or in some other corporation organized or to be organized with power to acquire and manage such property, provided, that all the bonds and other indebtedness and capital stock thereof (excepting the number of shares required to qualify directors), shall be received by the Trustee and shall be held for the benefit of the Railway Company, or its assigns, subject to this indenture.

With the written consent of the Railway Company, but not otherwise, the Trustee at any time may vote upon any shares of stock that shall be held by it hereunder, and may take such other action as in its discretion it shall deem advisable to protect its interests and the interests of the bondholders hereunder in respect of any bonds, obligations or stocks subject to the lien hereof, and, with such consent of the Railway Company, the Trustee may join in any plan of reorganization in respect of any such bonds or stocks and may accept new securities issued in exchange therefor under such plan. In case of the happening of any of the events hereinafter denominated events of default, or in case the Trustee shall have entered or shall have elected to enter into the railways or some of them constituting part of the mortgaged and pledged premises either under the power herein conferred, or by the voluntary action of the Railway Company, the Trustee shall be entitled to take such steps without the consent of the Railway Company.

The Railway Company covenants that, on demand of the Trustee, it forthwith will pay, or satisfactorily will provide for, all expenditures incurred by the Trustee under any of the provisions of this section, including all sums

"mortgaged and pledged premises" shall include all railways, leasehold interests, equipment, stocks, bonds and other properties conveyed or agreed to be conveyed by the granting clauses of this indenture, or otherwise becoming subject thereto.

ARTICLE FIVE.

CONTROL OF STOCKS AND BONDS MORTGAGED.

SECTION 1. When and as any bonds or obligations or the certificates for any shares of stock which the Railway Company by this indenture has assigned or agreed to assign and transfer to the Trustee, shall come into the possession of the Railway Company or under its control, the Railway Company forthwith shall deliver the same to the Trustee, together with proper instruments of assignment and transfer thereof to the Trustee or to its nominee or nominees.

SEC. 2. Whenever the Railway Company:

(a) shall own and hold, directly subject to the lien of this indenture, all the property, whether railways or bonds or shares of capital stock, conveyed, mortgaged, transferred or pledged to secure any series of bonds, all, or part of which, shall have been acquired by the Railway Company by the use of bonds issued under Section 2 of Article Two of this indenture, and all of which series of bonds (except lost or destroyed bonds, for which satisfactory indemnity may have been given,) shall then be pledged with the Trustee under and subject to the lien of this indenture; or

(b) shall deliver to the Trustee such conveyance or conveyances as, in the judgment of the Trustee, shall be sufficient to subject directly to the lien of this indenture all the property, whether railways or bonds or shares of capital stock, conveyed, mortgaged, transferred or pledged to secure any series of bonds, all or part of which, shall have been acquired by the Railway Company by the use of bonds issued under Section 2 of Article Two of this indenture, and all of which series of bonds (except lost or destroyed bonds, for which satisfactory indemnity may have been given,) shall then be pledged with the Trustee under and subject to the lien of this indenture;

the Trustee, at the request of the Railway Company, shall cancel all bonds of such series, so pledged with the Trustee, and shall take all steps desirable or proper to cause the mortgage, trust deed or trust agreement securing the same to be canceled or discharged of record, or the mortgaged or pledged premises and property embraced therein to be released from such mortgage, trust deed or trust agreement, and thereupon all bonds, shares of capital stock or other personal property mortgaged or pledged thereunder, shall be delivered to and held by the Trustee as further security for the bonds issued hereunder.

SEC. 3. The Trustee is authorized in its discretion (1) to cause to be registered in its name as Trustee, or in the name of its nominee or nominees, any and all coupon bonds which at any time hereafter may be received by it under and in accordance with any of the provisions of this indenture, or (2) to cause the same to be exchanged for registered bonds without coupons of any denomination, or (3) to cause any such bonds to be stamped "Not negotiable. Held by Central Trust Company of

New York, as Trustee, under the First Mortgage of the Spokane, Portland and Seattle Railway Company, dated March 1, 1911." The Trustee shall cause to be transferred into its name, as Trustee hereunder, or into the name of its nominee or nominees, all registered bonds which shall have been delivered and assigned to it hereunder.

The Trustee at any time may transfer into its name, as Trustee hereunder, all or any shares of stock, the certificates for which shall have been pledged with and delivered to it hereunder, or in its discretion the Trustee may hold such certificates in the name of the registered holder thereof at the time of such pledge, or in the name of a nominee of the Trustee, provided that in either case the same be endorsed in blank for transfer, or be accompanied by proper instruments of assignment in blank duly executed by such registered holder.

The Trustee may do whatever may be necessary in its opinion for the purpose of maintaining, preserving, renewing or extending the corporate existence of any company, any part of whose stock shall be held by the Trustee hereunder, and for such purposes, from time to time, may sell, assign, transfer and deliver so many shares of the stock of the several companies as may be necessary to qualify persons to act as directors of, or in any other official relation to, said companies. Whenever the Railway Company shall in writing so request (which request shall state that the Railway Company has no shares for that purpose under its control other than shares held under this indenture), the Trustee shall assign and transfer to persons designated by the Railway Company, a sufficient number of any shares that then shall be held by the Trustee hereunder, to qualify

such persons to act as directors of, or in any official relation to, the several companies which issued such shares; provided, however, that under this provision no transfer shall be made which shall reduce the amount of stock in any such company held by the Trustee; so as to render it less than a controlling interest in such stock; and in every case the Trustee shall make such arrangements as it shall deem necessary for the protection of the trust hereunder in respect of the shares so assigned.

SEC. 4. Unless and until a receiver shall have entered into possession of the railways or some of them constituting part of the mortgaged and pledged premises; or unless and until the Trustee shall have entered into possession of said railways or some of them or a part thereof, under the powers herein granted; or unless and until there shall be a default (1) in the payment of any interest on any first mortgage gold bond or bonds at any time outstanding; or (2) in the payment of the principal of any first mortgage gold bond; or (3) in the payment of any interest on, or of the principal of, any outstanding bond secured by any mortgage or instrument of conveyance or assignment in trust at the time constituting a prior lien on the mortgaged and pledged premises, or on part thereof; or (4) in the due observance or performance of any other covenant or condition in this indenture required to be kept or performed by the Railway Company, and such last-mentioned default shall have continued for a period of six months after written notice thereof shall have been given by the Trustee to the Railway Company,—

(a) The Trustee shall not (except with the assent of the Railway Company) collect or be entitled to collect the principal or interest of any bonds, or of any

other claims or indebtedness hereafter subject to this indenture, whether at or before or after the maturity of such bonds or other claims or indebtedness, and shall not enforce any provision of the mortgages, trust deeds or other instruments under which such bonds or other obligations shall be or shall have been issued, or by which the same are secured;

(b) The Railway Company shall be entitled to receive all interest paid in respect of all such bonds or obligations and the dividends on all shares of stock which shall be subject to this indenture although the same may have been transferred to the Trustee;

(c) From time to time (subject to the covenants in respect thereof in this section contained), upon request of the Railway Company, the Trustee shall deliver to the Railway Company all coupons for such interest then in the possession of the Trustee, in order that the Railway Company may receive payment thereof for its own use, or may cause the same to be canceled; and the Trustee shall deliver to the Railway Company, suitable orders in favor of the Railway Company, or its nominee, for the payment of such interest and dividends, and the Railway Company may collect such coupons, interest and dividends (but not by any proceeding which the Trustee shall deem prejudicial to the trusts hereunder), and the Trustee upon demand shall pay over to the Railway Company all such interest and dividends which may be collected or be received by the Trustee; and

(d) The Railway Company, for its own use, shall

be entitled to demand and receive and collect (but not by any proceeding which the Trustee shall deem prejudicial to the trusts hereunder) and may release and discharge the principal and interest of all such claims or indebtedness subjected to the lien of this indenture under Section 7 of Article Four hereof, and upon request of the Railway Company the Trustee shall execute any re-assignments or releases which may be required for that purpose;

Provided, however, and hereby it is declared and agreed that except as in this indenture otherwise expressly provided,

(1) The Railway Company shall not be entitled to receive and the Trustee shall not pay over to the Railway Company the principal of any bonds or obligations subject to this indenture;

(2) The Railway Company shall not be entitled to receive and the Trustee shall not pay over any interest on any bonds, obligations, claims or indebtedness subject to this indenture or the dividends on any such shares of stock which shall have been collected or paid out of the proceeds of any sale or condemnation of the property covered by a mortgage or deed of trust or trust agreement securing such bonds or obligations or out of the proceeds of the sale of any other property of the company liable upon such bonds, obligations, claims or indebtedness in case of a dissolution or liquidation of such company; it being the intention that the Railway Company shall be entitled to receive only payments made out of the rents,

revenues, income or proceeds of operation of such properties;

(3) The Railway Company shall not sell, assign or transfer any such coupon or right to interest or dividends delivered or assigned to it, or any other such claim or indebtedness, except subject to this indenture;

(4) The Railway Company shall not collect any such coupons or interest or dividends, or any other such claims or indebtedness, by legal proceedings or by enforcement of any security therefor, except with the written assent of the Trustee, nor in any manner which the Trustee shall deem prejudicial to the trusts hereunder; and

(5) Until actually paid, released or discharged, every such coupon or right to interest or dividends, and all other such claims and indebtedness shall remain subject to the lien of this indenture.

The Trustee shall be entitled to assume that any interest received by it on any bond or other obligation, claim or indebtedness, or any dividends received on any shares of stock, is paid out of rents, revenues, income or proceeds of operation, until it is notified in writing to the contrary; and in the absence of any such written notification it shall be conclusively presumed as between the Trustee and the bondholders, that, in making any payments thereof to the Railway Company, the Trustee acted in good faith.

If any such coupons or if any evidence of any such claim or indebtedness, delivered to the Railway Company hereunder, shall not as aforesaid forthwith be paid or canceled, the Railway Company shall return the same to the Trustee,

and, in case of the payment of any such coupon, claim or indebtedness, shall, upon the demand of the Trustee, furnish satisfactory evidence of the cancellation and extinguishment thereof.

SEC. 5. In case any sum shall be paid on account of the principal of any bonds or of any obligations subject to this indenture (except claims or indebtedness subjected to the lien of this indenture under Section 7 of Article Four hereof), or in case any sum shall be paid on account of the interest on any such bonds or obligations, out of the proceeds of the sale of property covered by a mortgage or trust deed securing such bonds or obligations, or in case, upon the dissolution or liquidation of any company, any sum shall be paid upon any bonds or shares of stock or any claims against or indebtedness of such company subject to this indenture (except claims or indebtedness subjected to the lien of this indenture under Section 7 of Article Four hereof), then in any such case any such sum, unless applied on account of the purchase price of property purchased pursuant to Section 7 of this Article, shall be received by the Trustee and shall, from time to time, be paid over by the Trustee to the Railway Company to reimburse it for expenditures by it made for any purpose for which bonds or their proceeds may be used under Section 3 of Article Two hereof, upon certificates of such expenditures, signed by the President or a Vice-President or Chief Engineer and by the Comptroller or Auditor or Treasurer of the Railway Company, and otherwise subject to the provisions and restrictions of said section. Such certificates shall be in the form re-

quired by Section 3 of Article Two hereof and shall be full protection to the Trustee for its action on the faith thereof.

SEC. 6. Unless and until some one of the events described in the first paragraph of Section 4 of this Article Five shall have happened, the Railway Company shall have the right to vote upon all shares of stock subject to this indenture for all purposes not contrary to its covenants herein contained or otherwise inconsistent with the provisions or purposes of this indenture, and with the same force and effect as though such shares were not subject to this indenture; and from time to time, upon demand of the Railway Company, the Trustee forthwith shall execute and deliver, or shall cause to be executed and delivered, to the Railway Company, or to its nominees, suitable powers of attorney or proxies to vote upon any shares of stock which shall have been transferred to the Trustee or to its nominees. Specifically, but without limitation of the general powers in this section or elsewhere herein reserved to the Railway Company, or to the owner or owners of any shares of stock pledged hereunder, the Railway Company shall have the right so to vote all shares of stock pledged hereunder in favor of the creation by any company of whose capital stock the greater part shall be pledged hereunder, of mortgages or other liens or charges, upon any additional property subsequent to the date of this indenture acquired by any such company. A certificate signed by the President or a Vice-President or the Chief Engineer and by the Comptroller or Auditor or Treasurer of the Railway Company, specifying such additional property acquired by any such company, shall be received by the Trustee as conclusive evidence of the truth of the state-

ments therein set forth, and shall be full warrant and protection to the Trustee for its action on the faith thereof.

SEC. 7. In case default shall be made in the payment of the principal or interest of any bonds or obligations which shall have been delivered to and shall be held by the Trustee hereunder, or of any other bonds then secured by the same mortgage or deed of trust as such bonds held by the Trustee, then, and in any such case, if the Trustee shall hold more than ninety per cent. in amount of the entire issue of such bonds or obligations in default, the Trustee, without prejudice, however, to its right to claim a default under this indenture, or to assert any right consequent upon such default, shall upon the written request of the Railway Company (the Railway Company not then being in default under this indenture), and, if required by the Trustee hereunder, upon receiving reasonable indemnity, and in other cases upon such written request it may, in its discretion, cause proper proceedings to be instituted and prosecuted in some court of competent jurisdiction to foreclose or enforce the mortgage, or trust, or charge, by which such bonds or obligations in default are secured. In case of the happening of any of the events hereinafter denominated events of default, or in case the Trustee shall have entered or shall have elected to enter into possession of the railways or some of them constituting part of the mortgaged and pledged premises, either under the power herein conferred, or by the voluntary action of the Railway Company, then, and in any such case, the Trustee, in its discretion, may institute such proceedings without such written request.

In case (1) at any time any company of whose capital

"mortgaged and pledged premises" shall include all railways, leasehold interests, equipment, stocks, bonds and other properties conveyed or agreed to be conveyed by the granting clauses of this indenture, or otherwise becoming subject thereto.

ARTICLE FIVE.

CONTROL OF STOCKS AND BONDS MORTGAGED.

SECTION 1. When and as any bonds or obligations or the certificates for any shares of stock which the Railway Company by this indenture has assigned or agreed to assign and transfer to the Trustee, shall come into the possession of the Railway Company or under its control, the Railway Company forthwith shall deliver the same to the Trustee, together with proper instruments of assignment and transfer thereof to the Trustee or to its nominee or nominees.

SEC. 2. Whenever the Railway Company:

(a) shall own and hold, directly subject to the lien of this indenture, all the property, whether railways or bonds or shares of capital stock, conveyed, mortgaged, transferred or pledged to secure any series of bonds, all, or part of which, shall have been acquired by the Railway Company by the use of bonds issued under Section 2 of Article Two of this indenture, and all of which series of bonds (except lost or destroyed bonds, for which satisfactory indemnity may have been given,) shall then be pledged with the Trustee under and subject to the lien of this indenture; or

(b) shall deliver to the Trustee such conveyance or conveyances as, in the judgment of the Trustee, shall be sufficient to subject directly to the lien of this indenture all the property, whether railways or bonds or shares of capital stock, conveyed, mortgaged, transferred or pledged to secure any series of bonds, all or part of which, shall have been acquired by the Railway Company by the use of bonds issued under Section 2 of Article Two of this indenture, and all of which series of bonds (except lost or destroyed bonds, for which satisfactory indemnity may have been given,) shall then be pledged with the Trustee under and subject to the lien of this indenture;

the Trustee, at the request of the Railway Company, shall cancel all bonds of such series, so pledged with the Trustee, and shall take all steps desirable or proper to cause the mortgage, trust deed or trust agreement securing the same to be canceled or discharged of record, or the mortgaged or pledged premises and property embraced therein to be released from such mortgage, trust deed or trust agreement, and thereupon all bonds, shares of capital stock or other personal property mortgaged or pledged thereunder, shall be delivered to and held by the Trustee as further security for the bonds issued hereunder.

SEC. 3. The Trustee is authorized in its discretion (1) to cause to be registered in its name as Trustee, or in the name of its nominee or nominees, any and all coupon bonds which at any time hereafter may be received by it under and in accordance with any of the provisions of this indenture, or (2) to cause the same to be exchanged for registered bonds without coupons of any denomination, or (3) to cause any such bonds to be stamped "Not negotiable. Held by Central Trust Company of

New York, as Trustee, under the First Mortgage of the Spokane, Portland and Seattle Railway Company, dated March 1, 1911." The Trustee shall cause to be transferred into its name, as Trustee hereunder, or into the name of its nominee or nominees, all registered bonds which shall have been delivered and assigned to it hereunder.

The Trustee at any time may transfer into its name, as Trustee hereunder, all or any shares of stock, the certificates for which shall have been pledged with and delivered to it hereunder, or in its discretion the Trustee may hold such certificates in the name of the registered holder thereof at the time of such pledge, or in the name of a nominee of the Trustee, provided that in either case the same be endorsed in blank for transfer, or be accompanied by proper instruments of assignment in blank duly executed by such registered holder.

The Trustee may do whatever may be necessary in its opinion for the purpose of maintaining, preserving, renewing or extending the corporate existence of any company, any part of whose stock shall be held by the Trustee hereunder, and for such purposes, from time to time, may sell, assign, transfer and deliver so many shares of the stock of the several companies as may be necessary to qualify persons to act as directors of, or in any other official relation to, said companies. Whenever the Railway Company shall in writing so request (which request shall state that the Railway Company has no shares for that purpose under its control other than shares held under this indenture), the Trustee shall assign and transfer to persons designated by the Railway Company, a sufficient number of any shares that then shall be held by the Trustee hereunder, to qualify

such persons to act as directors of, or in any official relation to, the several companies which issued such shares; provided, however, that under this provision no transfer shall be made which shall reduce the amount of stock in any such company held by the Trustee; so as to render it less than a controlling interest in such stock; and in every case the Trustee shall make such arrangements as it shall deem necessary for the protection of the trust hereunder in respect of the shares so assigned.

SEC. 4. Unless and until a receiver shall have entered into possession of the railways or some of them constituting part of the mortgaged and pledged premises; or unless and until the Trustee shall have entered into possession of said railways or some of them or a part thereof, under the powers herein granted; or unless and until there shall be a default (1) in the payment of any interest on any first mortgage gold bond or bonds at any time outstanding; or (2) in the payment of the principal of any first mortgage gold bond; or (3) in the payment of any interest on, or of the principal of, any outstanding bond secured by any mortgage or instrument of conveyance or assignment in trust at the time constituting a prior lien on the mortgaged and pledged premises, or on part thereof; or (4) in the due observance or performance of any other covenant or condition in this indenture required to be kept or performed by the Railway Company, and such last-mentioned default shall have continued for a period of six months after written notice thereof shall have been given by the Trustee to the Railway Company,—

(a) The Trustee shall not (except with the assent of the Railway Company) collect or be entitled to collect the principal or interest of any bonds, or of any

other claims or indebtedness hereafter subject to this indenture, whether at or before or after the maturity of such bonds or other claims or indebtedness, and shall not enforce any provision of the mortgages, trust deeds or other instruments under which such bonds or other obligations shall be or shall have been issued, or by which the same are secured;

(b) The Railway Company shall be entitled to receive all interest paid in respect of all such bonds or obligations and the dividends on all shares of stock which shall be subject to this indenture although the same may have been transferred to the Trustee;

(c) From time to time (subject to the covenants in respect thereof in this section contained), upon request of the Railway Company, the Trustee shall deliver to the Railway Company all coupons for such interest then in the possession of the Trustee, in order that the Railway Company may receive payment thereof for its own use, or may cause the same to be canceled; and the Trustee shall deliver to the Railway Company, suitable orders in favor of the Railway Company, or its nominee, for the payment of such interest and dividends, and the Railway Company may collect such coupons, interest and dividends (but not by any proceeding which the Trustee shall deem prejudicial to the trusts hereunder), and the Trustee upon demand shall pay over to the Railway Company all such interest and dividends which may be collected or be received by the Trustee; and

(d) The Railway Company, for its own use, shall

be entitled to demand and receive and collect (but not by any proceeding which the Trustee shall deem prejudicial to the trusts hereunder) and may release and discharge the principal and interest of all such claims or indebtedness subjected to the lien of this indenture under Section 7 of Article Four hereof, and upon request of the Railway Company the Trustee shall execute any re-assignments or releases which may be required for that purpose;

Provided, however, and hereby it is declared and agreed that except as in this indenture otherwise expressly provided,

(1) The Railway Company shall not be entitled to receive and the Trustee shall not pay over to the Railway Company the principal of any bonds or obligations subject to this indenture;

(2) The Railway Company shall not be entitled to receive and the Trustee shall not pay over any interest on any bonds, obligations, claims or indebtedness subject to this indenture or the dividends on any such shares of stock which shall have been collected or paid out of the proceeds of any sale or condemnation of the property covered by a mortgage or deed of trust or trust agreement securing such bonds or obligations or out of the proceeds of the sale of any other property of the company liable upon such bonds, obligations, claims or indebtedness in case of a dissolution or liquidation of such company; it being the intention that the Railway Company shall be entitled to receive only payments made out of the rents,

revenues, income or proceeds of operation of such properties;

(3) The Railway Company shall not sell, assign or transfer any such coupon or right to interest or dividends delivered or assigned to it, or any other such claim or indebtedness, except subject to this indenture;

(4) The Railway Company shall not collect any such coupons or interest or dividends, or any other such claims or indebtedness, by legal proceedings or by enforcement of any security therefor, except with the written assent of the Trustee, nor in any manner which the Trustee shall deem prejudicial to the trusts hereunder; and

(5) Until actually paid, released or discharged, every such coupon or right to interest or dividends, and all other such claims and indebtedness shall remain subject to the lien of this indenture.

The Trustee shall be entitled to assume that any interest received by it on any bond or other obligation, claim or indebtedness, or any dividends received on any shares of stock, is paid out of rents, revenues, income or proceeds of operation, until it is notified in writing to the contrary; and in the absence of any such written notification it shall be conclusively presumed as between the Trustee and the bondholders, that, in making any payments thereof to the Railway Company, the Trustee acted in good faith.

If any such coupons or if any evidence of any such claim or indebtedness, delivered to the Railway Company hereunder, shall not as aforesaid forthwith be paid or canceled, the Railway Company shall return the same to the Trustee,

and, in case of the payment of any such coupon, claim or indebtedness, shall, upon the demand of the Trustee, furnish satisfactory evidence of the cancellation and extinguishment thereof.

SEC. 5. In case any sum shall be paid on account of the principal of any bonds or of any obligations subject to this indenture (except claims or indebtedness subjected to the lien of this indenture under Section 7 of Article Four hereof), or in case any sum shall be paid on account of the interest on any such bonds or obligations, out of the proceeds of the sale of property covered by a mortgage or trust deed securing such bonds or obligations, or in case, upon the dissolution or liquidation of any company, any sum shall be paid upon any bonds or shares of stock or any claims against or indebtedness of such company subject to this indenture (except claims or indebtedness subjected to the lien of this indenture under Section 7 of Article Four hereof), then in any such case any such sum, unless applied on account of the purchase price of property purchased pursuant to Section 7 of this Article, shall be received by the Trustee and shall, from time to time, be paid over by the Trustee to the Railway Company to reimburse it for expenditures by it made for any purpose for which bonds or their proceeds may be used under Section 3 of Article Two hereof, upon certificates of such expenditures, signed by the President or a Vice-President or Chief Engineer and by the Comptroller or Auditor or Treasurer of the Railway Company, and otherwise subject to the provisions and restrictions of said section. Such certificates shall be in the form re-

quired by Section 3 of Article Two hereof and shall be full protection to the Trustee for its action on the faith thereof.

SEC. 6. Unless and until some one of the events described in the first paragraph of Section 4 of this Article Five shall have happened, the Railway Company shall have the right to vote upon all shares of stock subject to this indenture for all purposes not contrary to its covenants herein contained or otherwise inconsistent with the provisions or purposes of this indenture, and with the same force and effect as though such shares were not subject to this indenture; and from time to time, upon demand of the Railway Company, the Trustee forthwith shall execute and deliver, or shall cause to be executed and delivered, to the Railway Company, or to its nominees, suitable powers of attorney or proxies to vote upon any shares of stock which shall have been transferred to the Trustee or to its nominees. Specifically, but without limitation of the general powers in this section or elsewhere herein reserved to the Railway Company, or to the owner or owners of any shares of stock pledged hereunder, the Railway Company shall have the right so to vote all shares of stock pledged hereunder in favor of the creation by any company of whose capital stock the greater part shall be pledged hereunder, of mortgages or other liens or charges, upon any additional property subsequent to the date of this indenture acquired by any such company. A certificate signed by the President or a Vice-President or the Chief Engineer and by the Comptroller or Auditor or Treasurer of the Railway Company, specifying such additional property acquired by any such company, shall be received by the Trustee as conclusive evidence of the truth of the state-

ments therein set forth, and shall be full warrant and protection to the Trustee for its action on the faith thereof.

SEC. 7. In case default shall be made in the payment of the principal or interest of any bonds or obligations which shall have been delivered to and shall be held by the Trustee hereunder, or of any other bonds then secured by the same mortgage or deed of trust as such bonds held by the Trustee, then, and in any such case, if the Trustee shall hold more than ninety per cent. in amount of the entire issue of such bonds or obligations in default, the Trustee, without prejudice, however, to its right to claim a default under this indenture, or to assert any right consequent upon such default, shall upon the written request of the Railway Company (the Railway Company not then being in default under this indenture), and, if required by the Trustee hereunder, upon receiving reasonable indemnity, and in other cases upon such written request it may, in its discretion, cause proper proceedings to be instituted and prosecuted in some court of competent jurisdiction to foreclose or enforce the mortgage, or trust, or charge, by which such bonds or obligations in default are secured. In case of the happening of any of the events hereinafter denominated events of default, or in case the Trustee shall have entered or shall have elected to enter into possession of the railways or some of them constituting part of the mortgaged and pledged premises, either under the power herein conferred, or by the voluntary action of the Railway Company, then, and in any such case, the Trustee, in its discretion, may institute such proceedings without such written request.

In case (1) at any time any company of whose capital

stock the greater part shall be held by the Trustee subject to this indenture as a first lien thereon, shall be dissolved or liquidated, or in case (2) all or any property of any such company shall be sold at any judicial or other sale, or in case (3) any property covered by a mortgage securing any bonds, or subject to any charge or trust for the payment of any other obligations, held by the Trustee subject to this indenture as a first lien thereon, shall be sold upon foreclosure of such mortgage, or by enforcement of such charge or trust,—then in any such event, if the property of such dissolved or liquidated company, or the property sold, can be acquired by crediting on the bonds, obligations, claims, indebtedness, or stock, held by the Trustee hereunder, any sum accruing or to be received thereon out of the proceeds of such property, and by paying not more than ten per cent. of the price of such property in cash (or more than ten per cent., if the holders of a majority in amount of the first mortgage gold bonds shall so request), the Trustee in its discretion may, and, if requested in writing by the Railway Company or by the holders of a majority in amount of the first mortgage gold bonds and provided with the amount of cash necessary therefor (whether such amount be more or less than ten per cent. of the price of such property), in every case shall, purchase or cause to be purchased, or permit the Railway Company to purchase, such property, either in the name or on behalf of the Trustee or of the Railway Company, or by purchasing trustees, as the Trustee may determine, and shall use, or permit the Railway Company to use, such bonds, obligations, claims, indebtedness and stock, so far as may be, to make payment for such property; and in case of any such purchase the Trustee shall take such steps

as it may deem proper to cause such property to be vested either in the Railway Company, subject to this indenture, or in some other corporation organized or to be organized with power to acquire and manage such property, provided, that all the bonds and other indebtedness and capital stock thereof (excepting the number of shares required to qualify directors), shall be received by the Trustee and shall be held for the benefit of the Railway Company, or its assigns, subject to this indenture.

With the written consent of the Railway Company, but not otherwise, the Trustee at any time may vote upon any shares of stock that shall be held by it hereunder, and may take such other action as in its discretion it shall deem advisable to protect its interests and the interests of the bondholders hereunder in respect of any bonds, obligations or stocks subject to the lien hereof, and, with such consent of the Railway Company, the Trustee may join in any plan of reorganization in respect of any such bonds or stocks and may accept new securities issued in exchange therefor under such plan. In case of the happening of any of the events hereinafter denominated events of default, or in case the Trustee shall have entered or shall have elected to enter into the railways or some of them constituting part of the mortgaged and pledged premises either under the power herein conferred, or by the voluntary action of the Railway Company, the Trustee shall be entitled to take such steps without the consent of the Railway Company.

The Railway Company covenants that, on demand of the Trustee, it forthwith will pay, or satisfactorily will provide for, all expenditures incurred by the Trustee under any of the provisions of this section, including all sums

required to obtain and perfect the ownership and title to any property which the Trustee shall purchase or shall cause to be purchased or which the Railway Company shall purchase pursuant to the provisions of this section, and in case the Railway Company shall fail so to do, then, without impairment of, or prejudice to, any of its rights hereunder by reason of the default of the Railway Company, the Trustee, in its discretion, may advance all such expenses and other moneys required, or may procure such advances to be made by others, and for such advances made by the Trustee, or by others at its request, with interest thereon, the Trustee shall have a lien under this indenture preferentially to the bonds hereby secured upon all the stocks, bonds, claims and indebtedness in respect of which such advances shall have been made, and the proceeds thereof, and any property acquired by means thereof, as well as upon the mortgaged and pledged premises.

In case neither the Trustee nor the Railway Company shall purchase or cause to be purchased the property sold at any such sale, and the Trustee shall not join in a plan of reorganization as aforesaid in respect of such bonds or stocks, then the Trustee shall receive any portion of the proceeds of the sale accruing on the securities by it held hereunder, and such proceeds, from time to time, shall be paid over to the Railway Company, to reimburse it for expenditures made for any purpose for which bonds or their proceeds may be used under Section 3 of Article Two hereof, upon the certificates and subject to the restrictions and provisions as set forth in said section, which certificates shall be in the form required by the said section, and shall be full protection to the Trustee for its action on the faith thereof.

SEC. 8. Anything in this indenture to the contrary notwithstanding, any company all or part of whose capital stock shall be subject to this indenture, may be merged or consolidated with the Railway Company, or all or any part of its property may be sold or conveyed to the Railway Company. In the event of such consolidation or merger or sale, this indenture shall become and be a lien upon the property of the company so consolidated or merged with the Railway Company, or upon the property so sold or conveyed to the Railway Company, with the same force and effect as if expressly conveyed by this indenture, and the holders of the first mortgage gold bonds shall always have as full and complete a lien upon such property as that herein created by the pledge of the stock and bonds of such constituent company or of such selling company, to the Trustee hereunder.

Anything in this indenture to the contrary notwithstanding, any company, all or part of whose capital stock shall be subject to this indenture, may be merged or be consolidated with, or all its property may be sold or conveyed as an entirety to, any other company, the greater part of whose capital stock shall be owned by the Railway Company and be subject to this indenture; provided, however, that the portion of the capital stock of any company formed by such consolidation or into which such merger shall be made, issued for or in lieu of stocks of the constituent companies parties to such consolidation or merger, previously pledged hereunder, shall always bear to the total capital stock of such company a proportionate relation at least as high (but never less than a majority thereof) as that borne by such previously pledged stock to the aggregate capital stock of such constituent companies;

ARTICLE TEN.

CONCERNING THE TRUSTEE.

SECTION 1. The Trustee shall not be answerable for the default or the misconduct of any agent or attorney appointed in pursuance hereof, if such agent or attorney shall have been selected with reasonable care, nor shall it be responsible for anything whatever in connection with this trust except for its willful misconduct or gross negligence. The Trustee shall be protected in acting upon any notice, request, consent, certificate, bond or other paper or document believed by it to be genuine and to have been signed by the proper party.

The Trustee shall not be personally liable for any debts duly contracted by it, or for damages to persons or property carried or injured, or for salaries or nonfulfillment of the contracts, during any period wherein the Trustee shall manage the trust property or premises upon entry or voluntary surrender as aforesaid. Neither shall the Trustee be under any obligation to take any action towards the execution or enforcement of the trusts hereby created, which, in the opinion of the Trustee, shall be likely to involve expense or liability, unless one or more of the holders of the first mortgage gold bonds shall, as often as required by the Trustee, furnish reasonable indemnity against such expense or liability; nor shall the Trustee be required to take notice of any default hereunder, unless notified in writing of such default by the holders of at least five per cent. in amount of the first mortgage gold bonds then outstanding, or to take any action in respect of any default unless requested to take action in respect thereof by a writing signed by the holders of not less than twenty per

cent. in amount of the first mortgage gold bonds then outstanding, and tendered reasonable indemnity as aforesaid, anything herein contained to the contrary notwithstanding; but the foregoing provisions of this section are intended only for the protection of the Trustee, and shall not be construed to affect any discretion or power by any provision of this indenture given to the Trustee, to determine whether or not it shall take action in respect of any default without such notice or request from bondholders, or to affect any other discretion or power given to the Trustee. The Trustee shall not be responsible for the recording of this indenture and shall not be required to file or refile the same as a chattel mortgage, nor shall it be responsible for the recording of any indenture or instrument supplemental to this indenture, nor shall it be required to file or refile the same as a chattel mortgage or otherwise.

The Trustee shall be reimbursed for, and be indemnified against, any liability or damages which may be sustained by it in the premises. The Trustee shall be secured under this indenture, preferentially to the bonds issued under this indenture, for its compensation and expenses, and also for any liability or damages by it sustained in the premises.

The Trustee shall not be responsible in any manner whatsoever for the validity hereof, or for the amount or the extent of the security afforded by the property covered hereby, or for the recitals herein or in said bonds contained, all such recitals being and to be taken as the statements of the Railway Company; nor shall it be accountable for the use of any bonds authenticated and delivered by the Trustee hereunder or for the application of the proceeds of such bonds.

The Trustee may advise with legal counsel, and shall be

fully protected in any action under this indenture taken in good faith by it, in accordance with the opinion of counsel, and such action so taken shall be conclusive on the Railway Company and on all holders of the bonds hereby secured.

In all cases where this indenture does not make other express provisions, as to the evidence on which the Trustee may act or refrain from acting or upon which it may rely, the Trustee shall be protected, in acting or refraining from acting under any provision of this instrument, in relying upon the certificate, as to any matter therein mentioned, signed by the President or a Vice-President or the Chief Engineer and by the Comptroller or Auditor or Treasurer of the Railway Company.

The Trustee shall be entitled to reasonable compensation for all services rendered by it in the execution of the trusts hereby created and the Railway Company agrees to pay such compensation as well as all expenses necessarily incurred or disbursed by the Trustee hereunder.

SEC. 2. The Trustee, unless and until it shall have received written notice to the contrary from the holders of five per cent. in amount of the first mortgage gold bonds outstanding, may, for all purposes of this indenture, assume that no default has happened under any mortgage or deed of trust covering the mortgaged and pledged premises, or any part thereof, or under any bond secured by any such mortgage or deed of trust; that no default has been made in the payment of any of said bonds, or in the observance or performance of any other of the covenants contained in said bonds or in the mortgage or deed of trust securing the same; that no receiver has been appointed of the railways or of any of them constituting part of the

mortgaged and pledged premises; that no trustee under any mortgage or deed of trust covering the property or any part thereof constituting the mortgaged or pledged premises is or has been in possession of the property embraced in such mortgage or deed of trust; that the Railway Company is not in default under this indenture, and that none of the events hereinbefore denominated events of default has happened. The notice to the Trustee in this section provided for shall distinctly specify the default desired to be brought to the attention of the Trustee.

SEC. 3. The Trustee, or any trustee or trustees hereafter appointed, may resign and be discharged from the trusts created by this indenture by giving to the Railway Company and to the bondholders notice by publication of such resignation, specifying a date when such resignation shall take effect, which notice shall be published at least once on a day not less than thirty days nor more than sixty days prior to the date so specified, in a newspaper at that time published in New York, N. Y., and in a newspaper published in Portland, Oregon. Such resignation shall take effect on the day specified in such notice, unless previously a successor trustee shall have been appointed as hereinafter provided, either by the Railway Company or by the bondholders, in which event such resignation shall take effect immediately upon the appointment of such successor trustee.

Any trustee hereunder may be removed at any time by an instrument in writing under the hands of the holders of two-thirds in amount of the first mortgage gold bonds then outstanding.

SEC. 4. In case at any time the Trustee or any successor

trustee shall resign or shall be removed or otherwise shall become incapable of acting, a successor or successors may be appointed by the holders of a majority in amount of the first mortgage gold bonds then outstanding, by an instrument or concurrent instruments signed by such bondholders or their attorneys-in-fact duly authorized; but until a new trustee shall be appointed by the bondholders as herein authorized the Railway Company, by an instrument executed by order of its board of trustees, or of its executive committee, may appoint a trustee to fill such vacancy; provided, however, that any new trustee appointed in succession to Central Trust Company of New York, or in succession to any such successor, shall always be a trust company in the City of New York, having a capital and surplus aggregating at least \$2,000,000, if there be such a trust company willing and able to accept the trust upon reasonable and customary terms. After any such appointment by the Railway Company, it shall publish notice of such appointment once in each of four successive weeks in a newspaper published in New York, N. Y., and a newspaper published in Portland, Oregon, and any new trustee so appointed by the Railway Company shall immediately and without further act be superseded by a trustee appointed in the manner above provided by the holders of a majority in amount of the first mortgage gold bonds, if such appointment by such bondholders be made prior to the expiration of six months after such publication of notice.

Any successor trustee appointed hereunder shall execute, acknowledge and deliver to the Railway Company an instrument accepting such appointment hereunder, and thereupon such successor trustee, without any further act, deed

or conveyance, shall become vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor in the trust hereunder, with like effect as if originally named as trustee herein; but nevertheless, on the written request of the Railway Company or of the successor trustee, the trustee ceasing to act shall execute and deliver an instrument transferring to such successor trustee, upon the trusts herein expressed, all the estates, properties, rights, powers and trusts of the trustee so ceasing to act, and shall duly assign, transfer and deliver its interest in any stocks, bonds or other property and moneys subject to this indenture to the successor trustee so appointed in its place; and, upon request of any such successor trustee, the Railway Company shall make, execute, acknowledge and deliver any and all deeds, conveyances or other instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such estates, properties, rights, powers and duties.

Until the moneys secured by the first mortgage gold bonds, or some or one of them, shall become payable under the provisions therein or herein contained, or until the Trustee shall, under the provisions hereof, become entitled to enter upon the mortgaged premises, the Trustee, or any trust company appointed trustee hereunder in succession to it, may solely have and exercise the powers, and shall solely be charged with the performance of the duties, hereinbefore declared on the part of the Trustee to be had and exercised or to be performed, including the right to declare due the principal of the first mortgage gold bonds.

ARTICLE ELEVEN.

POSSESSION UNTIL DEFAULT--DEFEASANCE CLAUSE.

SECTION 1. Until some default shall have been made in the due and punctual payment of the interest or of the principal of the first mortgage gold bonds at any time outstanding, or of some part of such interest or principal, or in the due and punctual performance and observance of some covenant or condition hereof obligatory upon the Railway Company, and until such default shall have continued beyond the period of grace, if any, herein provided in respect thereof, the Railway Company, its successors and assigns, shall be suffered and permitted to retain actual possession of all the property subject to this indenture (other than bonds, certificates of stock, cash and other property pledged or to be pledged hereunder with the Trustee), and to manage, operate and use the same and every part thereof, with the rights and franchises appertaining thereto, and to collect, receive, take, use and enjoy the tolls, earnings, income, rents, issues and profits thereof.

SEC. 2. If, when the first mortgage gold bonds shall have become due and payable, the Railway Company shall well and truly pay, or cause to be paid, the whole amount of the principal and interest due upon all first mortgage gold bonds and coupons then outstanding, or shall provide for the payment of such bonds and coupons by depositing with the Trustee hereunder the entire amount due thereon for principal and interest, and also shall pay, or cause to be paid, all other sums payable hereunder by the Railway Company, and shall well and truly keep and perform all

the things herein required to be kept and performed by it according to the true intent and meaning of this indenture, then and in that case all property, rights and interests hereby conveyed or assigned or pledged shall revert to the Railway Company, and the estate, rights, title and interest of the Trustee shall thereupon cease, determine and become void, and the Trustee in such case, on demand of the Railway Company, and at its cost and expense, shall enter satisfaction of this indenture upon the record; otherwise the same shall be, continue and remain in full force and virtue.

ARTICLE TWELVE.

SUNDRY PROVISIONS.

SECTION 1. All the covenants, stipulations, promises and agreements in this indenture contained by or in behalf of the Railway Company shall bind its successors and assigns, whether so expressed or not.

SEC. 2. Nothing contained in this indenture, or in any first mortgage gold bonds, shall prevent any lease, subject to the continuing lien of this indenture and to all the provisions thereof, of all the property subject to this indenture, to a railway corporation at that time existing under and by virtue of the laws of any state or states, or of the United States, and empowered to take such a lease; provided, however, that such lease shall be made subject to termination by the Railway Company or by the Trustee hereunder in case of the happening of an event of default, or by the purchaser at any sale of the mortgaged and pledg-

ed premises, made in enforcement of this indenture.

SEC. 3. Nothing contained in this indenture, or in any first mortgage gold bond, shall prevent any consolidation or merger of the Railway Company with any other corporation, or any sale, subject to the continuing lien of this indenture and to all the provisions thereof, of all the property subject to this indenture, as an entirety, to a railway corporation at that time existing under and by virtue of the laws of any state or states, or of the United States and empowered to acquire the same; provided, however, that such consolidation, merger or sale shall be upon such terms as to preserve and not to impair the lien and security of this indenture, or any of the rights or powers of the Trustee or of the holders of the first mortgage gold bonds.

In case the Railway Company shall be consolidated or merged with any other corporation, or shall sell all the property subject to this indenture as an entirety, as aforesaid, the corporation formed by such consolidation, or the corporation into which the Railway Company shall have been merged, or which shall have purchased as aforesaid, upon executing and causing to be recorded an instrument satisfactory to the Trustee whereby such successor or purchasing corporation shall assume the due and punctual payment of the principal and interest of the first mortgage gold bonds and the performance of all the covenants and conditions of this indenture, shall succeed to, and be substituted for, the Railway Company, party of the first part hereto, with the same effect as if it had been named herein as such party of the first part; and such successor or purchasing corporation thereupon may cause to be signed, and may issue either in its own name or in the name of the Spokane, Portland and Seattle Railway Company any or all such

bonds which theretofore shall not have been signed by the Spokane, Portland and Seattle Railway Company and delivered to the Trustee; and, upon the order of said successor or purchasing corporation, in lieu of the Railway Company, and subject to all the terms, conditions and restrictions herein prescribed, the Trustee shall authenticate and shall deliver all such bonds which previously shall have been signed and delivered by the officers of the Railway Company to the Trustee for authentication, and such bonds which such successor or purchasing corporation thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the bonds so issued in every respect, shall have the same legal rank and security as the bonds theretofore or thereafter issued in accordance with the terms of this indenture, as though all the said bonds had been issued at the date of the execution hereof.

For every purpose of this indenture, including the execution, issue and use of any and all first mortgage gold bonds the terms "Railway Company" and "Spokane, Portland and Seattle Railway Company" include and mean not only the party of the first part hereto, but also any such successor or purchasing corporation. The Railway Company, by its present corporate name or by any other corporate name which hereafter it lawfully may adopt and possess, and every such successor or purchasing corporation shall have, and from time to time may exercise, each and every right and power hereunder of Spokane, Portland and Seattle Railway Company, in the name of Spokane, Portland and Seattle Railway Company or otherwise.

Any act or proceeding, by any provision of this indenture authorized or required to be done or performed by any board or officer of the Railway Company, shall and may be

SEC. 9. The Trustee may adjourn from time to time any sale by it to be made under the provisions of this indenture, by announcement at the time and place appointed for such sale, or for such adjourned sale or sales; and without further notice or publication, it may make such sale at the time and place to which the same shall be so adjourned.

SEC. 10. Upon the completion of any sale or sales under this indenture, the Trustee shall execute and deliver to the accepted purchaser or purchasers a good and sufficient deed, or good and sufficient deeds, and other instruments conveying, assigning and transferring the properties and franchises sold. The Trustee and its successors hereby are appointed the true and lawful attorneys irrevocable of the Railway Company, in its name and stead to make all necessary conveyances and assignments of property and all necessary transfers of shares of stock or bonds or other obligations thus sold; and for that purpose they may execute all necessary deeds and instruments of assignment and transfer, and may substitute one or more persons with like power; the Railway Company hereby ratifying and confirming all that its said attorneys or such substitute or substitutes shall lawfully do by virtue hereof.

Any such sale or sales made under or by virtue of this indenture, whether under the power of sale herein granted and conferred, or under or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Railway Company, of, in and to the premises and property so sold, and shall be a perpetual bar both at law and in equity, against the Railway Company, its successors and assigns, and against any and all persons claiming or to

claim the premises and property sold, or any part thereof, from, through or under the Railway Company, its successors or assigns.

The personal property and chattels conveyed or intended to be conveyed by or pursuant to this indenture, other than stocks, bonds and other securities and claims, shall be real estate for all the purposes of this indenture, and shall be held and taken to be fixtures and appurtenances of the said railways and part thereof, and are to be used and sold therewith and not separate therefrom, except as herein otherwise provided.

SEC. 11. The receipt of the Trustee for the purchase money paid at any such sale shall be a sufficient discharge therefor to any purchaser of the property or any part thereof, sold as aforesaid; and no such purchaser or his representatives, grantees or assigns, after paying such purchase money and receiving such receipt, shall be bound to see to the application of such purchase money upon or for any trust or purpose of this indenture, or in any manner whatsoever be answerable for any loss, misapplication or non-application of any such purchase money or any part thereof, or be bound to inquire as to the authorization, necessity, expediency or regularity of any such sale.

SEC. 12. In case of a sale under any of the foregoing provisions of this Article, whether made under the power of sale herein granted or pursuant to judicial proceedings, or in case of a sale upon foreclosure of the property embraced in any of the mortgages constituting prior liens on the mortgaged and pledged premises or parts thereof, by reason of a default thereunder, the principal sums of the first mortgage gold bonds, if not previously due, shall im-

mediately thereupon become due and payable, anything in said bonds or in this indenture to the contrary notwithstanding.

SEC. 13. The purchase money, proceeds or avails of any such sale, whether under the power of sale herein granted or pursuant to judicial proceedings, together with any other sums which then may be held by the Trustee under any of the provisions of this indenture as part of the trust estate or the proceeds thereof, shall be applied as follows:

FIRST. To the payment of the costs and expenses of such sale, including a reasonable compensation to the Trustee, its agents, attorneys and counsel, and of all expenses, liabilities and advances made or incurred by the Trustee, and to the payment of all taxes, assessments or liens prior to the lien of this indenture, except the superior liens and any taxes, assessments or other charges, subject to which the property shall have been sold;

SECOND. To the payment of the whole amount then owing or unpaid upon the first mortgage gold bonds for principal and interest, with interest on the overdue installments at the same rate as was borne by the respective bonds on which such installments of interest are overdue; and in case such proceeds shall be insufficient to pay in full the whole amount so due and unpaid upon the said bonds, then to the payment of such principal and interest, without preference or priority of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest, ratably to the aggregate of such principal and the accrued and unpaid interest,

subject, however, to the provisions of Section 1 of this Article Six;

THIRD. To the payment of the surplus, if any, to the Railway Company, its successors or assigns, or to whosoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

SEC. 14. Upon any such sale by the Trustee, whether under the power of sale herein granted or pursuant to judicial proceedings, any purchaser, for or in settlement or payment of the purchase price of the property purchased, shall be entitled to use and apply any first mortgage gold bonds, and any matured and unpaid coupons, by presenting such bonds and coupons in order that there may be credited thereon the sums applicable to the payment thereof out of the net proceeds of such sale to the owner of such bonds and coupons as his ratable share of such net proceeds, after the deduction of costs, expenses, compensations and other charges; and thereupon such purchaser shall be credited, on account of such purchase price payable by him, with the portion of such net proceeds that shall be applicable to the payment of, and that shall have been credited upon, the bonds and coupons so presented; and at any such sale, any bondholder may bid for and purchase such property, and may make payment therefor as aforesaid, and upon compliance with the terms of sale, may hold, retain and dispose of such property without further accountability.

SEC. 15. The Railway Company covenants that

(1) in case default shall be made in the payment

of any interest on any first mortgage gold bond or bonds at any time outstanding, and such default shall have continued for a period of six months, or

(2) in case default shall be made in the payment of the principal of any such bonds when the same shall become payable, whether upon the maturity of said bonds or upon declaration as authorized by this indenture, or upon a sale as set forth in Section 12 of this Article Six;

then upon demand of the Trustee, the Railway Company will pay to the Trustee, for the benefit of the holders of the first mortgage gold bonds and coupons then outstanding, the whole amount which then shall have become due and payable on all such bonds and coupons then outstanding, for interest or principal, or both, as the case may be, with interest upon the overdue principal and installments of interest at the same rate as on the bonds which, or the installments of interest on which, are overdue; and in case the Railway Company shall fail to pay the same forthwith upon such demand the Trustee in its own name and as trustee of an express trust, shall be entitled to recover judgment for the whole amount so due and unpaid.

The Trustee shall be entitled to recover judgment as aforesaid, either before or after or during the pendency of any proceedings for the enforcement of the lien of this indenture; and the right of the Trustee to recover such judgment shall not be affected by any entry or sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the provisions of this indenture or the foreclosure of the lien thereof, and in case of a sale of the property subject to this indenture, and of the application

of the proceeds of sale to the payment of the debt hereby secured, the Trustee, in its own name and as trustee of an express trust, shall be entitled to enforce payment of and to receive all amounts then remaining due and unpaid upon any and all first mortgage gold bonds then outstanding, for the benefit of the holders thereof, and shall be entitled to recover judgment for any portion of the debt remaining unpaid with interest. No recovery of any such judgment by the Trustee, and no levy of any execution upon any such judgment upon property subject to this indenture, or upon any other property, shall in any manner or to any extent affect the lien of this indenture upon the property, or any part of the property subject to this indenture, or any rights, powers, or remedies of the Trustee hereunder, or any lien, rights, powers or remedies of the holders of the first mortgage gold bonds, but such lien, rights, powers and remedies of the Trustee and of the bondholders shall continue unimpaired as before.

Any moneys thus collected by the Trustee under this section, shall be applied by the Trustee, first to the payment of the expenses, disbursements and compensations of the Trustee, its agents and attorneys, and, second, towards payment of the amounts then due and unpaid upon such bonds and coupons in respect of which such moneys shall have been collected, ratably and without preference or priority of any kind (except as provided in Section 1 of this Article Six), according to the amounts due and payable upon such bonds and coupons, respectively, at the date fixed by the Trustee for the distribution of such moneys, upon presentation of the several bonds and coupons and stamping such payment thereon, if partly paid, and upon surrender thereof, if fully paid.

SEC. 16. The Railway Company will not at any time insist upon or plead, or in any manner whatever claim, or take the benefit or advantage of, any stay or extension law, now or at any time hereafter in force; nor will it claim, take or insist upon any benefit or advantage from any law now or hereafter in force providing for the valuation or appraisal of the property, or any part of the property, subject to this indenture, prior to any sale or sales thereof to be made pursuant to any provision herein contained, or to the decree, judgment or order of any court of competent jurisdiction; nor after any such sale or sales will it claim or exercise any right under any statute enacted by the United States or by any state or territory or otherwise to redeem the property so sold or any part thereof; and it hereby expressly waives all benefit and advantage of any such law or laws, and it covenants that it will not hinder, delay or impede the execution of any power herein granted and delegated to the Trustee, but that it will suffer and permit the execution of every such power as though no such law or laws had been made or enacted.

SEC. 17. Upon filing a bill in equity, or upon commencement of any other judicial proceedings, to enforce any right of the Trustee or of the bondholders under this indenture, the Trustee shall be entitled to exercise the right of entry, and also any and all other rights and powers herein conferred and provided to be exercised by the Trustee upon the happening of an event of default as hereinbefore provided; and, as matter of right, the Trustee shall be entitled to the appointment of a receiver of the premises and property subject to this indenture, and of the earnings, income, revenue, rents, issues and profits thereof with such powers as the court making such appointment shall confer;

but notwithstanding the appointment of any receiver, the Trustee shall be entitled, as pledgee, to continue to retain possession and control of any stocks, bonds, cash and other property pledged or to be pledged with the Trustee hereunder.

SEC. 18. With the consent of the Trustee, at any time hereafter before full payment of the first mortgage gold bonds and whenever the Railway Company shall deem expedient for the better protection or security of such bonds (although then there shall be no default entitling the Trustee to exercise the rights and powers conferred by Sections 2 and 3 of this Article Six), it may surrender and may deliver to the Trustee full possession of the whole or any part of the property, premises and interests hereby conveyed or assigned, or intended so to be, and may authorize the Trustee to collect the dividends and interest on all shares of stock, bonds and other obligations subject to this indenture, and to vote upon all such shares of stock, for any period fixed or indefinite. In such event the Trustee shall enter into and upon the premises and property so surrendered and delivered, and shall take and receive possession thereof for such period, fixed or indefinite, as aforesaid, without prejudice, however, to its right at any time subsequently, when entitled thereto by any provision hereof, to insist upon maintaining and to maintain such possession though beyond the expiration of any such prescribed period, and from the time of its entry upon such premises and property, the Trustee shall work, maintain, use, manage, control and employ the same in accordance with the provisions of this indenture, and shall receive and apply the income and revenues thereof as provided in Section 2 of this Article Six. Upon application of the

Trustee, and with the consent of the Railway Company, if then there be no subsisting default such as is specified in said Section 2 of this Article Six, and without such consent if then there shall be such a subsisting default, a receiver may be appointed to take possession of, and to operate, maintain and manage the whole or any part of the property subject to this indenture, and the Railway Company shall transfer and deliver to such receiver all such property, wheresoever the same may be situated; and in every case, when a receiver of the whole or of any part of said property shall be appointed under this section, or otherwise, the net income and profits of such property shall be paid over to, and shall be received by, the Trustee, for the benefit of the holders of the first mortgage gold bonds; provided, however, that notwithstanding the appointment of any such receiver, the Trustee, as pledgee, shall be entitled to retain possession and control of any stocks, bonds, cash and other property pledged or to be pledged with the Trustee hereunder.

SEC. 19. No holder of any first mortgage gold bond or coupon shall have the right to institute any suit, action or proceeding in equity or at law for the foreclosure of this indenture, or for the execution of any trust hereunder, or for the appointment of a receiver, or for any other remedy hereunder, unless such holder previously shall have given to the Trustee written notice of such default and of the continuance, thereof, as hereinbefore provided, nor unless also the holders of twenty per cent. in amount of the first mortgage gold bonds then outstanding, shall have made written request upon the Trustee, and shall have afforded to it a reasonable opportunity either to proceed to exercise the powers hereinbefore granted, or to institute such ac-

tion, suit or proceeding in its own name; nor, unless, also, they shall have offered to the Trustee adequate security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby; and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this indenture and to any action or cause of action for foreclosure or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more holders of bonds and coupons shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the lien of this indenture, or to enforce any right hereunder, except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all holders of such outstanding bonds and coupons.

SEC. 20. Except as herein expressly provided to the contrary, no remedy herein conferred upon or reserved to the Trustee or to the holders of first mortgage gold bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

SEC. 21. No delay or omission of the Trustee, or of any holder of first mortgage gold bonds, to exercise any right or power accruing upon any default continuing as aforesaid, shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquies-

cence therein; and every power and remedy given by this Article to the Trustee and to the bondholders respectively, may be exercised from time to time, and as often as may be deemed expedient by the Trustee or by the bondholders respectively.

ARTICLE SEVEN.

IMMUNITY OF STOCKHOLDERS, OFFICERS AND DIRECTORS.

No recourse under or upon any obligation, covenant or agreement contained in this indenture, or in any first mortgage gold bond or coupon, or because of the creation of any indebtedness hereby secured, shall be had against any incorporator, stockholder, officer or trustee of the Railway Company, or of any successor corporation, either directly or through the Railway Company, by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any statute or otherwise; it being expressly agreed and understood that this indenture and the obligations hereby secured are solely corporate obligations, and that no personal liability whatever shall attach to or be incurred by the incorporators, stockholders, officers or trustees, or any of them, of the Railway Company, or of any successor corporation, because of the creation of the indebtedness hereby authorized, or under or by reason of any obligations, covenants or agreements contained in this indenture, or in any bonds or coupons hereby secured, or implied therefrom; and that any and all personal liability of every name and nature, and any and all rights and claims against every such stockholder, officer or trustee, whether arising at common law or in equity, or created by statute or constitution, hereby are expressly released

and waived as a condition of, and as part of the consideration for, the execution of this indenture and the issue of the bonds and interest obligations secured hereby.

ARTICLE EIGHT.

BONDHOLDERS' ACTS, HOLDINGS AND APPARENT AUTHORITY.

SECTION 1. Any demand, request or other instrument, required by this indenture to be signed and executed by bondholders, may be in any number of concurrent writings of similar tenor, and may be signed or executed by such bondholders in person or by agent appointed in writing. Proof of the execution of any such demand, request or other instrument, or of the writing appointing any such agent, and of the ownership by any person of coupon bonds transferable by delivery, shall be sufficient for any purpose of this indenture, and shall be conclusive in favor of the Trustee or of the Railway Company, with regard to due action taken by either of them under such instrument if such proof be made in the following manner:

The fact and date of the execution by any person of any such demand, request, or other instrument or writing may be proved by the certificate of any notary public, or other officer authorized to take acknowledgments of deeds to be recorded in New York, that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness to such execution.

The fact of the holding by any bondholder of coupon bonds transferable by delivery, and the amounts and issue numbers of such bonds, and the date of his holding the same, may be proved by a certificate executed by any trust

company, bank, bankers or other depository (wherever situated), if such certificate shall be deemed by the Trustee to be satisfactory, showing that at the date therein mentioned, such person had on deposit with such depository the bonds described in such certificate. For all purposes of this indenture and of any proceeding for the enforcement thereof, such person shall be deemed to continue the holder of such bonds until the Trustee shall have received notice in writing to the contrary. The ownership of registered coupon bonds or of registered bonds without coupons shall be proved by the registers of such bonds.

ARTICLE NINE.

RELEASES OF MORTGAGED PROPERTY.

SECTION 1. From time to time upon the written request of the President or of a Vice-President of the Railway Company, duly authorized by resolution of its board of trustees or executive committee, of which a certified copy shall be delivered to the Trustee, while the Railway Company is in possession thereof, but subject to the conditions and limitations in this section prescribed and not otherwise, the Trustee shall release from the lien and operation of this indenture any part of the mortgaged railways and lands, provided (1) that no part of the lines of track or of the rights of way shall be released unless the use thereof no longer shall be necessary or advantageous in the operation of any of the lines of railway described in the granting clauses hereof, or other lines subject to this indenture, and no part of such lines of track or rights of way shall so be released if thereby the continuity of the lines of railway of the Railway Company shall be broken; and (2) that

no part of the railways constituting part of the mortgaged and pledged premises or other property subject to this indenture shall be released hereunder, unless at the time of such release it no longer shall be necessary or advantageous to retain the same for the operation, maintenance or use of such lines of railway, or for use in the business of the Railway Company, and no such release shall be made unless the Railway Company shall have sold, or shall have contracted to exchange for other property, or to sell, the property so to be released. The proceeds of any and all such sales, and all moneys received as compensation for any property subject to this indenture taken by exercise of the power of eminent domain (unless applied in accordance with the requirements of the said indentures severally and respectively constituting prior liens on the mortgaged and pledged premises or on parts thereof), shall be held by the Railway Company separate and apart from any other assets and funds of the Railway Company, and with the approval of the Trustee, shall be applied to the purchase of other property, real or personal, or for betterments of or improvements upon any part of the mortgaged premises. Any new property acquired by the Railway Company to take the place of any property released hereunder, *ipso facto* shall become and be subject to this indenture, as fully as if specifically mortgaged or assigned hereby, but, if requested by the Trustee, the Railway Company will convey and assign the same to the Trustee by appropriate deeds or other instruments upon the trusts and for the purposes of this indenture, and will cause the same to be recorded or filed in such manner as appropriately to secure and continue the lien of this indenture thereon. From time to time, while it is in possession of any property subject to

this indenture, the Railway Company also shall have full power in its discretion to dispose of any portion of the machinery, equipment and implements, at any time subject to the lien hereof, which may have become unfit for such use, replacing the same by new machinery, equipment or implements, of equal value, which shall become subject to this indenture. In no event shall any purchaser or purchasers of any property sold or disposed of under any provision of this Article be required to see to the application of the purchase money.

SEC. 2. The Railway Company at any time may make any change in the location of any tracks, station houses, buildings or other structures upon any part of the mortgaged premises and upon conveyance to the Trustee under the terms of this indenture of such new tracks, station houses, buildings or other structures, and the premises on which the same may be erected, the Trustee at the request of the Railway Company shall release from the lien of this indenture the former tracks, station houses, buildings and other structures, and the premises on which they were erected, and shall execute and deliver any and all instruments necessary and proper to effect such purpose.

SEC. 3. The Railway Company from time to time may make changes or alterations in, or substitutions of or for, any leases, trackage rights or contracts that are subject to this indenture. In any such event any modified, altered or substituted leases, contracts or trackage rights forthwith shall become bound by and be subject to the terms of this indenture, in the same manner as those previously existing.

SEC. 4. Whenever the Railway Company shall own and hold, directly subject to the lien of this indenture, all the

property, both real and personal, of any company, of whose shares of capital stock all or a majority shall then be held by the Trustee, subject to this indenture as a first lien thereon, upon the written request of the Railway Company, the Trustee shall release all such shares so held by it from the lien of this indenture and shall deliver to the Railway Company certificates therefor properly assigned for transfer.

SEC. 5. In case any property subject to this indenture shall be in the possession of a receiver lawfully appointed, the powers in and by this Article conferred upon the Railway Company may be exercised by such receiver with the approval of the Trustee, and if the Trustee shall be in possession of any such property under any provision of this indenture, then all the powers in and by this Article conferred upon the Railway Company may be exercised by the Trustee in its discretion.

SEC. 6. A certificate signed by the President or a Vice-President or the Chief Engineer of the Railway Company, may be received by the Trustee as conclusive evidence of the facts mentioned in this Article and shall be full warrant and protection to the Trustee for its action on the faith thereof.

ARTICLE TEN.

CONCERNING THE TRUSTEE.

SECTION 1. The Trustee shall not be answerable for the default or the misconduct of any agent or attorney appointed in pursuance hereof, if such agent or attorney shall have been selected with reasonable care, nor shall it be responsible for anything whatever in connection with this trust except for its willful misconduct or gross negligence. The Trustee shall be protected in acting upon any notice, request, consent, certificate, bond or other paper or document believed by it to be genuine and to have been signed by the proper party.

The Trustee shall not be personally liable for any debts duly contracted by it, or for damages to persons or property carried or injured, or for salaries or nonfulfillment of the contracts, during any period wherein the Trustee shall manage the trust property or premises upon entry or voluntary surrender as aforesaid. Neither shall the Trustee be under any obligation to take any action towards the execution or enforcement of the trusts hereby created, which, in the opinion of the Trustee, shall be likely to involve expense or liability, unless one or more of the holders of the first mortgage gold bonds shall, as often as required by the Trustee, furnish reasonable indemnity against such expense or liability; nor shall the Trustee be required to take notice of any default hereunder, unless notified in writing of such default by the holders of at least five per cent. in amount of the first mortgage gold bonds then outstanding, or to take any action in respect of any default unless requested to take action in respect thereof by a writing signed by the holders of not less than twenty per

cent. in amount of the first mortgage gold bonds then outstanding, and tendered reasonable indemnity as aforesaid, anything herein contained to the contrary notwithstanding; but the foregoing provisions of this section are intended only for the protection of the Trustee, and shall not be construed to affect any discretion or power by any provision of this indenture given to the Trustee, to determine whether or not it shall take action in respect of any default without such notice or request from bondholders, or to affect any other discretion or power given to the Trustee. The Trustee shall not be responsible for the recording of this indenture and shall not be required to file or refile the same as a chattel mortgage, nor shall it be responsible for the recording of any indenture or instrument supplemental to this indenture, nor shall it be required to file or refile the same as a chattel mortgage or otherwise.

The Trustee shall be reimbursed for, and be indemnified against, any liability or damages which may be sustained by it in the premises. The Trustee shall be secured under this indenture, preferentially to the bonds issued under this indenture, for its compensation and expenses, and also for any liability or damages by it sustained in the premises.

The Trustee shall not be responsible in any manner whatsoever for the validity hereof, or for the amount or the extent of the security afforded by the property covered hereby, or for the recitals herein or in said bonds contained, all such recitals being and to be taken as the statements of the Railway Company; nor shall it be accountable for the use of any bonds authenticated and delivered by the Trustee hereunder or for the application of the proceeds of such bonds.

The Trustee may advise with legal counsel, and shall be

fully protected in any action under this indenture taken in good faith by it, in accordance with the opinion of counsel, and such action so taken shall be conclusive on the Railway Company and on all holders of the bonds hereby secured.

In all cases where this indenture does not make other express provisions, as to the evidence on which the Trustee may act or refrain from acting or upon which it may rely, the Trustee shall be protected, in acting or refraining from acting under any provision of this instrument, in relying upon the certificate, as to any matter therein mentioned, signed by the President or a Vice-President or the Chief Engineer and by the Comptroller or Auditor or Treasurer of the Railway Company.

The Trustee shall be entitled to reasonable compensation for all services rendered by it in the execution of the trusts hereby created and the Railway Company agrees to pay such compensation as well as all expenses necessarily incurred or disbursed by the Trustee hereunder.

SEC. 2. The Trustee, unless and until it shall have received written notice to the contrary from the holders of five per cent. in amount of the first mortgage gold bonds outstanding, may, for all purposes of this indenture, assume that no default has happened under any mortgage or deed of trust covering the mortgaged and pledged premises, or any part thereof, or under any bond secured by any such mortgage or deed of trust; that no default has been made in the payment of any of said bonds, or in the observance or performance of any other of the covenants contained in said bonds or in the mortgage or deed of trust securing the same; that no receiver has been appointed of the railways or of any of them constituting part of the

mortgaged and pledged premises; that no trustee under any mortgage or deed of trust covering the property or any part thereof constituting the mortgaged or pledged premises is or has been in possession of the property embraced in such mortgage or deed of trust; that the Railway Company is not in default under this indenture, and that none of the events hereinbefore denominated events of default has happened. The notice to the Trustee in this section provided for shall distinctly specify the default desired to be brought to the attention of the Trustee.

SEC. 3. The Trustee, or any trustee or trustees hereafter appointed, may resign and be discharged from the trusts created by this indenture by giving to the Railway Company and to the bondholders notice by publication of such resignation, specifying a date when such resignation shall take effect, which notice shall be published at least once on a day not less than thirty days nor more than sixty days prior to the date so specified, in a newspaper at that time published in New York, N. Y., and in a newspaper published in Portland, Oregon. Such resignation shall take effect on the day specified in such notice, unless previously a successor trustee shall have been appointed as hereinafter provided, either by the Railway Company or by the bondholders, in which event such resignation shall take effect immediately upon the appointment of such successor trustee.

Any trustee hereunder may be removed at any time by an instrument in writing under the hands of the holders of two-thirds in amount of the first mortgage gold bonds then outstanding.

SEC. 4. In case at any time the Trustee or any successor

trustee shall resign or shall be removed or otherwise shall become incapable of acting, a successor or successors may be appointed by the holders of a majority in amount of the first mortgage gold bonds then outstanding, by an instrument or concurrent instruments signed by such bondholders or their attorneys-in-fact duly authorized; but until a new trustee shall be appointed by the bondholders as herein authorized the Railway Company, by an instrument executed by order of its board of trustees, or of its executive committee, may appoint a trustee to fill such vacancy; provided, however, that any new trustee appointed in succession to Central Trust Company of New York, or in succession to any such successor, shall always be a trust company in the City of New York, having a capital and surplus aggregating at least \$2,000,000, if there be such a trust company willing and able to accept the trust upon reasonable and customary terms. After any such appointment by the Railway Company, it shall publish notice of such appointment once in each of four successive weeks in a newspaper published in New York, N. Y., and a newspaper published in Portland, Oregon, and any new trustee so appointed by the Railway Company shall immediately and without further act be superseded by a trustee appointed in the manner above provided by the holders of a majority in amount of the first mortgage gold bonds, if such appointment by such bondholders be made prior to the expiration of six months after such publication of notice.

Any successor trustee appointed hereunder shall execute, acknowledge and deliver to the Railway Company an instrument accepting such appointment hereunder, and thereupon such successor trustee, without any further act, deed

or conveyance, shall become vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor in the trust hereunder, with like effect as if originally named as trustee herein; but nevertheless, on the written request of the Railway Company or of the successor trustee, the trustee ceasing to act shall execute and deliver an instrument transferring to such successor trustee, upon the trusts herein expressed, all the estates, properties, rights, powers and trusts of the trustee so ceasing to act, and shall duly assign, transfer and deliver its interest in any stocks, bonds or other property and moneys subject to this indenture to the successor trustee so appointed in its place; and, upon request of any such successor trustee, the Railway Company shall make, execute, acknowledge and deliver any and all deeds, conveyances or other instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such estates, properties, rights, powers and duties.

Until the moneys secured by the first mortgage gold bonds, or some or one of them, shall become payable under the provisions therein or herein contained, or until the Trustee shall, under the provisions hereof, become entitled to enter upon the mortgaged premises, the Trustee, or any trust company appointed trustee hereunder in succession to it, may solely have and exercise the powers, and shall solely be charged with the performance of the duties, hereinbefore declared on the part of the Trustee to be had and exercised or to be performed, including the right to declare due the principal of the first mortgage gold bonds.

ARTICLE ELEVEN.

POSSESSION UNTIL DEFAULT--DEFEASANCE CLAUSE.

SECTION 1. Until some default shall have been made in the due and punctual payment of the interest or of the principal of the first mortgage gold bonds at any time outstanding, or of some part of such interest or principal, or in the due and punctual performance and observance of some covenant or condition hereof obligatory upon the Railway Company, and until such default shall have continued beyond the period of grace, if any, herein provided in respect thereof, the Railway Company, its successors and assigns, shall be suffered and permitted to retain actual possession of all the property subject to this indenture (other than bonds, certificates of stock, cash and other property pledged or to be pledged hereunder with the Trustee), and to manage, operate and use the same and every part thereof, with the rights and franchises appertaining thereto, and to collect, receive, take, use and enjoy the tolls, earnings, income, rents, issues and profits thereof.

SEC. 2. If, when the first mortgage gold bonds shall have become due and payable, the Railway Company shall well and truly pay, or cause to be paid, the whole amount of the principal and interest due upon all first mortgage gold bonds and coupons then outstanding, or shall provide for the payment of such bonds and coupons by depositing with the Trustee hereunder the entire amount due thereon for principal and interest, and also shall pay, or cause to be paid, all other sums payable hereunder by the Railway Company, and shall well and truly keep and perform all

the things herein required to be kept and performed by it according to the true intent and meaning of this indenture, then and in that case all property, rights and interests hereby conveyed or assigned or pledged shall revert to the Railway Company, and the estate, rights, title and interest of the Trustee shall thereupon cease, determine and become void, and the Trustee in such case, on demand of the Railway Company, and at its cost and expense, shall enter satisfaction of this indenture upon the record; otherwise the same shall be, continue and remain in full force and virtue.

ARTICLE TWELVE.

SUNDRY PROVISIONS.

SECTION 1. All the covenants, stipulations, promises and agreements in this indenture contained by or in behalf of the Railway Company shall bind its successors and assigns, whether so expressed or not.

SEC. 2. Nothing contained in this indenture, or in any first mortgage gold bonds, shall prevent any lease, subject to the continuing lien of this indenture and to all the provisions thereof, of all the property subject to this indenture, to a railway corporation at that time existing under and by virtue of the laws of any state or states, or of the United States, and empowered to take such a lease; provided, however, that such lease shall be made subject to termination by the Railway Company or by the Trustee hereunder in case of the happening of an event of default, or by the purchaser at any sale of the mortgaged and pledg-

ed premises, made in enforcement of this indenture.

SEC. 3. Nothing contained in this indenture, or in any first mortgage gold bond, shall prevent any consolidation or merger of the Railway Company with any other corporation, or any sale, subject to the continuing lien of this indenture and to all the provisions thereof, of all the property subject to this indenture, as an entirety, to a railway corporation at that time existing under and by virtue of the laws of any state or states, or of the United States and empowered to acquire the same; provided, however, that such consolidation, merger or sale shall be upon such terms as to preserve and not to impair the lien and security of this indenture, or any of the rights or powers of the Trustee or of the holders of the first mortgage gold bonds.

In case the Railway Company shall be consolidated or merged with any other corporation, or shall sell all the property subject to this indenture as an entirety, as aforesaid, the corporation formed by such consolidation, or the corporation into which the Railway Company shall have been merged, or which shall have purchased as aforesaid, upon executing and causing to be recorded an instrument satisfactory to the Trustee whereby such successor or purchasing corporation shall assume the due and punctual payment of the principal and interest of the first mortgage gold bonds and the performance of all the covenants and conditions of this indenture, shall succeed to, and be substituted for, the Railway Company, party of the first part hereto, with the same effect as if it had been named herein as such party of the first part; and such successor or purchasing corporation thereupon may cause to be signed, and may issue either in its own name or in the name of the Spokane, Portland and Seattle Railway Company any or all such

bonds which theretofore shall not have been signed by the Spokane, Portland and Seattle Railway Company and delivered to the Trustee; and, upon the order of said successor or purchasing corporation, in lieu of the Railway Company, and subject to all the terms, conditions and restrictions herein prescribed, the Trustee shall authenticate and shall deliver all such bonds which previously shall have been signed and delivered by the officers of the Railway Company to the Trustee for authentication, and such bonds which such successor or purchasing corporation thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the bonds so issued in every respect, shall have the same legal rank and security as the bonds theretofore or thereafter issued in accordance with the terms of this indenture, as though all the said bonds had been issued at the date of the execution hereof.

For every purpose of this indenture, including the execution, issue and use of any and all first mortgage gold bonds the terms "Railway Company" and "Spokane, Portland and Seattle Railway Company" include and mean not only the party of the first part hereto, but also any such successor or purchasing corporation. The Railway Company, by its present corporate name or by any other corporate name which hereafter it lawfully may adopt and possess, and every such successor or purchasing corporation shall have, and from time to time may exercise, each and every right and power hereunder of Spokane, Portland and Seattle Railway Company, in the name of Spokane, Portland and Seattle Railway Company or otherwise.

Any act or proceeding, by any provision of this indenture authorized or required to be done or performed by any board or officer of the Railway Company, shall and may be

done and performed with like force and effect by the like board or officer of any railway corporation that shall at the time be such lawful sole successor or purchaser of the Railway Company.

Nevertheless, before the exercise of the powers conferred by this Article, the Railway Company, by instrument in writing executed by authority of two-thirds of its board of trustees and delivered to the Trustee, may surrender any of the powers reserved to the Railway Company or to such successor or purchasing corporation; and thereupon such power so surrendered shall terminate.

SEC. 4. In order to facilitate the record of this indenture, the same may be executed simultaneously in several counterparts, each of which so executed shall be deemed to be an original; and such counterparts shall together constitute but one and the same instrument.

Central Trust Company of New York, Trustee, the party hereto of the second part, hereby accepts the trusts in this indenture declared and provided, and agrees to perform the same upon the terms and conditions hereinbefore set forth.

IN WITNESS WHEREOF. Spokane, Portland and Seattle Railway Company, the party hereto of the first part, has caused this indenture to be signed and acknowledged or proved by its President or a Vice-President, and its corporate seal to be hereunto affixed and the same to be attested by the signature of its Secretary or an Assistant Secretary; and Central Trust Company of New York, party of the second part, has caused these presents to be signed and acknowledged or proved by its President or a Vice-President and its corporate seal to be hereunto affixed and

the same to be attested by the signature of its Secretary or an Assistant Secretary, all on the day and year first above written.

SPOKANE, PORTLAND AND SEATTLE RAILWAY COMPANY,

By *Nicholas L. ...*
Vice-President.

ATTEST: *Albert H. ...*
Assistant Secretary

CENTRAL TRUST COMPANY OF NEW YORK,

By *E. Francis Hyle*
President.
ATTEST: *M. ...*
Secretary.

Signed, sealed and delivered by Spokane, Portland and Seattle Railway Company in presence of

W. H. ...
W. H. ...
Attesting Witnesses.

Signed, sealed and delivered by Central Trust Company of New York in presence of

J. ...
...
Attesting Witnesses.

UN
B
191
New
as
edg
ten
enc
age
Vic
Sec
Cor
whi
me
Pre
cor
sig
me
res
tw
suc
G.
did
enc

UNITED STATES OF AMERICA, }
 STATE OF NEW YORK. }
 COUNTY OF NEW YORK. } ss.
 CITY OF NEW YORK. }

BE IT REMEMBERED that on the *fourteenth* day of March, 1911, before me, the undersigned authority, *Edwin P. Corey*, a Notary Public in and for said County of New York, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds or conveyances of lands, tenements and hereditaments in said state, and in the presence of the undersigned witnesses, both males of lawful age, personally came and appeared *Nicholas Terhune* Vice-President, and *Albert A. Hunt*, Assistant Secretary, of the Spokane, Portland and Seattle Railway Company, the corporation of that name described in and which executed the foregoing instrument, both being to me personally known, and known to be such Vice-President and Assistant Secretary, respectively, of said corporation, and to be the same persons who have now signed, executed and acknowledged the foregoing instrument, as such Vice-President and Assistant Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and the said *Nicholas Terhune*, and *Albert A. Hunt*, being by me duly severally sworn, did severally depose and say and acknowledge in the presence of said witnesses, that said *Nicholas Terhune*

resides in the City of *New York*..., in the State of *New York*..., and that said *Albert H. Kent*... resides in the City of *Elizabeth*..., in the State of *New Jersey*...; that said *Nicholas Tribune* is the Vice-President, and said *Albert H. Kent*... is the Assistant Secretary, of the Spokane, Portland and Seattle Railway Company, one of the corporations described in and which executed the above instrument; that they the said *Nicholas Tribune*... Vice-President, and said *Albert H. Kent*..., Assistant Secretary, know the corporate seal of said corporation; that the seal affixed to said instrument is the corporate seal of said corporation; that it was so affixed thereto by order and authority of the board of trustees of said corporation, and that they and each of them signed their names to the foregoing instrument, in their respective capacities as Vice-President and Assistant Secretary in behalf of said Company, by like order and authority; that they signed and executed the same as their own free and voluntary act and deed, and as the free and voluntary act and deed of said Company, for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged said instrument to be the free act and deed of said corporation.

Thus done and signed, at the County of New York in the State of New York, in the presence of the undersigned Notary Public, and of said two witnesses, both residing in said City of *New York*..., who hereunto sign their names with said appearers, and said Notary Public, on the day and date aforesaid.

Given under my hand and official seal this *fourteenth* day of March, 1911. My commission and term of office

as 2

A

V

as Notary Public expire on *March 1st 1911*, 1911...

Appearers:

Richard L. ...
Albert ...

Witnesses:

W. ...
W. ...

Erwin F. Coey

Notary Public,
New York County.

STATE OF NEW YORK, }
COUNTY OF NEW YORK. } ss.

I,, Clerk of the County of New York, and also Clerk of the Supreme Court of the State of New York for the said county, the same being a Court of Record having a seal, do hereby certify that *Edwin H. Corey*....., whose name is subscribed to the certificate of the proof or acknowledgment of the annexed instrument in writing and thereon written, and by and before whom such acknowledgment was taken, was, at the time of taking such proof and acknowledgment, a notary public in and for the said County of New York, duly commissioned, sworn and acting as such, and authorized by the laws of said State to take and certify the acknowledgments and proofs of deeds or conveyances for lands, tenements or hereditaments in said State of New York. And further, that I am well acquainted with the handwriting of such notary public and verily believe that the signature to the said certificate of proof or acknowledgment is genuine. I further certify that the annexed instrument and acknowledgment are in due form of law, and that said instrument is executed and acknowledged according to the laws of the State of New York.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said Court and County this *fourteenth* day of *March*....., 1911.

.....,
Clerk.

UNI
1911
of N
such
ment
ence
age
Secr
the
exec
sonal
and
and a
Presi
prese
name
being
and
that
said
Clerk

UNITED STATES OF AMERICA,
STATE OF NEW YORK. }
COUNTY OF NEW YORK. } ss.
CITY OF NEW YORK.

BE IT REMEMBERED that on this *fourteenth* day of March, 1911, before me, *E. David*,
David..... a Notary Public in and for said County of New York, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds or conveyances of lands, tenements and hereditaments in said state, and in the presence of the undersigned witnesses, *both* males of lawful age, personally came and appeared *E. Francis Hyde*
Nice..... President, and *W. H. Ferguson*..... Secretary, of the Central Trust Company of New York, the corporation of that name described in and which executed the foregoing instrument, both being to me personally known, and known to be such..... President and Secretary, respectively, of said corporation, and to be the same persons who have now signed, executed and acknowledged the foregoing instrument, as such *Nice* President and Secretary, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and the said *E. Francis Hyde* and *W. H. Ferguson*, being by me duly severally sworn, did severally depose and say and acknowledge in the presence of said witnesses, that said *E. Francis Hyde* resides in the City of *New York*, in the State of *New York*, and that said *W. H. Ferguson* resides in the City of *New York*, in the State of *New York*; that said *E. Francis Hyde* is the *Nice* President,

and said *Ed. Ferguson*..... is the
 Secretary, of Central Trust Company of New York, one
 of the corporations described in and which executed the
 above instrument; that they the said *E. Straussberg, Secy.*..... President,
 and the said *Ed. Ferguson*.....,
 Secretary, being thereto duly authorized by resolution of
 the executive committee of said Trust Company, did by
 these presents accept the same, for the consideration,
 objects and purposes therein stated, as well for and on be-
 half of said Trust Company, as for each and every other
 person or persons who may hereafter become the purchaser
 or purchasers, assignee or assignees, or holder or holders
 of the said bonds or coupons, or any number thereof, or
 any of them, in said instrument described, together with
 all rights, benefits and privileges thereunto accruing or in
 anywise appertaining under and by virtue thereof; that
 they, the said *C. Thomas Wade*....., *Vice.*
 President, and said *Ed. Ferguson*.....,
 Secretary, know the corporate seal of said corporation;
 that the seal affixed to said instrument is the corporate
 seal of said corporation; that it was so affixed thereto by
 order and authority of the board of directors and executive
 committee of said corporation, and that they and each of
 them signed their names to the foregoing instrument, in
 their respective capacities, by like order and authority, as
Wm. H. ... President and Secretary of said
 Trust Company; that they signed and executed the same
 as their own free and voluntary act and deed, and as the
 free and voluntary act and deed of said Trust Company,
 for the consideration, objects, uses and purposes therein
 stated and set forth; that under and by virtue of the
 by-laws of said Trust Company, the said Secre-

ary
 to
 of t
 par
 C.
 men
 T
 Sta
 Not
 the
 with
 and
 G
 day
 Not

A

W

tary has the custody of the seal thereof, and is authorized to affix the seal to the instruments taken under execution of trusts which have been accepted by the said Trust Company; and said *E. Francis Hyde* and *M. J. Quinn* severally duly acknowledged said instrument to be the free act and deed of said corporation.

Thus done and signed at the County of New York, in the State of New York, in the presence of the undersigned Notary Public, and of said two witnesses, both residing in the City of *New York*, who hereunto sign their names with said appearers, and said Notary Public, on the day and date aforesaid.

Given under my hand and official seal this *fourteenth* day of March, 1911. My commission and term of office as Notary Public expire on *March thirtieth, 1911*...

Appearers:

E. Francis Hyde

M. J. Quinn

Witnesses:

J. Malin

R. Becker

Erwin J. Loney
Notary Public,
New York County.

STATE OF NEW YORK, }
COUNTY OF NEW YORK. } ss.

I,, Clerk of the County of New York, and also Clerk of the Supreme Court of the State of New York for the said County, the same being a Court of Record having a seal, do hereby certify that *Charles J. ...*, whose name is subscribed to the certificate of the proof or acknowledgment of the annexed instrument in writing and thereon written, and by and before whom such acknowledgment was taken, was, at the time of taking such proof and acknowledgment, a notary public in and for the said County of New York, duly commissioned, sworn and acting as such, and authorized by the laws of said State to take and certify the acknowledgments and proofs of deeds or conveyances for lands, tenements or hereditaments in said State of New York. And further, that I am well acquainted with the handwriting of such notary public, and verily believe that the signature to the said certificate of proof or acknowledgment is genuine. I further certify that the annexed instrument and acknowledgment are in due form of law, and that said instrument is executed and acknowledged according to the laws of the State of New York.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said Court and County this *fourteenth* day of *March*, 19*07*.

.....,
Clerk.

STATE OF NEW YORK. }
COUNTY OF NEW YORK. }ss.

...*Nicholas Dechum* being first duly sworn on oath says, that he is the Vice President of the Spokane, Portland and Seattle Railway Company and, being duly authorized thereunto, makes this affidavit for and on its behalf; that the foregoing mortgage or deed of trust dated March 1, 1911, between the said Spokane, Portland and Seattle Railway Company as party of the first part and the Central Trust Company of New York as party of the second part is made in good faith and without any design to hinder, delay or defraud creditors.

Nicholas Dechum
Subscribed and sworn to before me this *fourteenth*

day of March, 1911.

.....*Erwin F. Boy*.....
Notary Public,
New York County.

ed
with.

C
O
P
Y

S. P. & S. MORTGAGE
Dated March 1, 1911.

T 1575

Record of Filings.

COUNTY	DATE FILED IN REAL PROPERTY RECORDS	BOOK	PAGE	FEE	DATE FILED IN PERSONAL PROP- ERTY RECORDS.	BOOK	PAGE	FEE
<u>Multnomah</u>	March 20, 1911	415	273	\$30.60	Indexed			
<u>Columbia</u>	March 22, 1911	"R"	439	\$63.00				
<u>Clatsop</u>	March 21, 1911	132	32	\$53.40				
<u>Clarke</u>	March 21, 1911 11:40	87	520	\$52.25	March 21, 1911	"G"	163	\$52.75
<u>Skamania</u>	March 21, 1911 8:15 A.M.	"K"	68	\$53.00	March 21, 1911 8:15 A.M.	"O"	282	\$53.50
<u>Klickitat</u>	March 21, 1911 2:15 P.M.	28		\$45.00	March 21, 1911 2:15 P.M.	11		\$45.65
<u>Franklin</u>	March 21, 1911 9:15 A.M.	16	240	\$45.00	March 21, 1911 9:15 A.M.	2	565	\$45.00
<u>Benton</u>	March 21, 1911 2:30 P.M.	12	1	\$48.00	March 21, 1911 2:31 P.M.	1	43	\$48.50
<u>Adams</u>	March 22, 1911 10:25 A.M.	40	433	\$46.35	March 22, 1911 10:30 A.M.	7	46	\$46.85
<u>Whitman</u>	March 22, 1911 3:48 P.M.	144	16	\$45.15	March 22, 1911 3:50 P.M.	91	11	\$45.65
<u>Lincoln</u>	March 21, 1911 4:50 P.M.	35	1-49	\$45.15	March 21, 1911 4:50 P.M.	"N"	535	\$45.65
<u>Spokane</u>	March 21, 1911 9:04 A.M.	212	380	\$45.15	March 21, 1911 9:05 A.M.	22	1	\$45.65

CERTIFICATION OF TRUE COPY
(OF RAILROAD FIRST MORTGAGE)

STATE OF OREGON)
) ss.
County of Multnomah)

Mr. W. V. CURRIE, of Portland, Oregon, being first duly sworn upon his oath deposes and says:

That he is a Notary Public in and for the State of Oregon, residing at Portland, Oregon; that he is employed as office manager in the office of Mr. H. F. Moy, Corporate Secretary for the Spokane, Portland and Seattle Railway Company, and that corporate documents and records of that railroad are maintained in Portland, Oregon; that the foregoing First Mortgage instrument bearing date of March 1, 1911, has been personally compared with the copy counterpart thereof recorded with the recording officer of Multnomah County, Oregon, and with the certified copy provided by Manufacturers Hanover Trust Company, successor Trustee through merger of original mortgagee, Central Trust Company of New York and that the foregoing copy of said First Mortgage of 1911 is a complete copy of the original in all respects including the dates, signatures and acknowledgments; that because the date of the foregoing Mortgage of 1911 preceded the Mortgage recording conditions under the Interstate Commerce Act (49 USCA 20c; added by Chapter 881, 66 Statutes 724 on July 16, 1952), the original Mortgage of the railroad was not heretofore filed or recorded with the Interstate Commerce Commission; that the sole purpose of the present recordation of that Mortgage instrument is to satisfy the requirements under authority providing for sale of railroad equipment to National Railroad Passenger Corporation (AMTRAK).

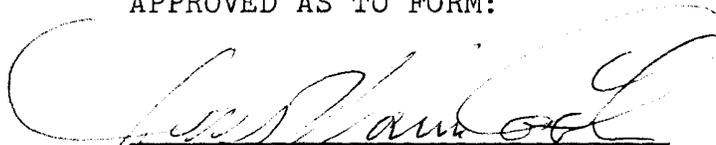
DATED at Portland, Oregon, this 13th day of December,
1971.


WILLIAM V. CURRIE

Subscribed and sworn to before me this 13th day of
December, 1971.


Notary Public for Oregon
My Commission Expires: Oct 25 1974

APPROVED AS TO FORM:



JAMES WARREN COOK
Attorney
Burlington Northern Inc.
1201 American Bank Bldg.
Portland, Oregon 97205
228-9111

